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BUREAU FOR RESEARCH
IN MUNICIPAL GOVERNMENT

CHARTER

OF THE

CITY OF ROCHESTER

CHAPTER 755 OF THE LAWS OF 1907

DRAFTED BY
BENJAMIN B. CUNNINGHAM
ASSISTANT CORPORATION COUNSEL
UNDER THE SUPERVISION OF MAYOR JAMES G. CUTLER AND CORPORATION COUNSEL W. W. WEBB

1908

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ROCHESTER, N. Y.:
JOHN P. SMITH PRINTING COMPANY
1907

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CHARTER OF THE CITY OF ROCHESTER.

Chap. 755.

AN ACT constituting the charter of the city of Rochester.

Became a law, July 26, 1907, with the approval of the Governor. Passed, three-fifths being present.

Accepted by the city.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

ARTICLE I.

GENERAL PROVISIONS.

Section 1. Corporate capacity and name.
2. Corporate powers.
3. Boundaries and wards.

Section 1. **Corporate capacity and name.**— The citizens of the state of New York from time to time inhabitants of the territory known as the city of Rochester, are continued a municipal corporation in perpetuity under the name of "The City of Rochester."

§ 2. **Corporate powers.**— The city has power to receive by gift, grant, devise, bequest, purchase, or condemnation proceedings, and to hold and convey such personal estate and such real estate within or without the limits of the city as the purposes of the corporation may require; to contract and be contracted with; to sue and defend, and to be sued in any court; to make, have, use and alter at pleasure a common seal; to have and exercise all other rights and privileges conferred upon it by law or necessary to carry out its corporate functions and duties.

§ 3. **Boundaries and wards.**— The city comprises the territory included in the following wards, into which it is divided:

1. **First ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river at its intersection with the center of the Erie canal; thence westerly along the said center of the Erie canal to the intersection with the center of Allen street; thence easterly along the said center of Allen street to the intersection with the center of State street; thence southerly along the said center of State street to the intersection with the center of Andrews street extended westerly; thence easterly along the said center of Andrews street to the intersection with the center of the Genesee river; thence southerly along the said center of the Genesee river, to the place of beginning, constitutes the first ward.

2. **Second ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river at its intersection with the center of Andrews street; thence westerly along the said center of Andrews street to the intersection with the center of State street; thence northerly along the said center of State street to the intersection with the center of Allen street extended easterly; thence westerly along the said center of Allen street to the intersection with the center of the Erie canal; thence northerly along the said center of the Erie canal to the intersection with the center of Jay street; thence easterly along the said center of Jay street and said center produced easterly, to the intersection with the center of the Genesee river; thence southerly along the said center of the Genesee river to the place of beginning, constitutes the second ward.

3. **Third ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river at its intersection with the center of the Erie canal; thence southerly along the said center of the Genesee river to a point where it intersects the south line of the Strong tract; thence westerly along the said south line of the Strong tract to the center of the lands now owned and occupied by the Pennsylvania railroad com-

pany, being the lands formerly used and occupied by the Genesee valley canal; thence northerly along the said center of the lands of the Pennsylvania railroad company to the intersection with the center of the Erie canal; thence easterly along the said center of the Erie canal to the place of beginning, constitutes the third ward.

4. **Fourth ward.**—All that part of the said city included within a line beginning at a point in the center of the Genesee river at its intersection with the center of Main street east; thence easterly along the said center of Main street east to the intersection with the center of East avenue extended westerly; thence southeasterly along the said center of East avenue to the intersection with the center of William street extended northerly; thence southerly along the said center of William street to the intersection with the center of Monroe avenue; thence southeasterly along the said center of Monroe avenue to the intersection with Alexander street; thence southerly along the said center of Alexander street to an angle in said street at Cobb street; thence southwesterly continuing in the said center of Alexander street to the intersection with the center of the Erie canal; thence northerly along the said center of the Erie canal to a point where the center line of Howell street extended westerly would intersect said center of the Erie canal; thence westerly on said center line of Howell street extended, to the intersection with the center of the Genesee river; thence northerly along said center of the Genesee river to the place of beginning, constitutes the fourth ward.

5. **Fifth ward.**—All that part of the said city included within a line beginning at a point in the center of the Genesee river at its intersection with the center of Main street east; thence northerly along the said center of the Genesee river to a point where the center line of Avenue E extended westerly would intersect the said center of the Genesee river; thence easterly along the said extended line and the said center of Avenue E to the intersection with the center of an alley extended northerly, the center of said alley being about one hundred and ninety-two feet easterly from the

easterly line of St. Paul street; thence southerly along said center of said alley to the intersection with the center of Avenue D; thence easterly along the said center of Avenue D to the intersection with the center of Harris avenue extended northerly; thence southerly along the said center of Harris avenue to the intersection with the center of Clifford street; thence westerly along said center of Clifford street to the intersection with the center of Durgin street extended northerly; thence southerly along said center of Durgin street to the intersection with the center of Evergreen street; thence easterly along said center of Evergreen street to the intersection with the center of Conkey avenue; thence northerly along said center of Conkey avenue to the intersection with the center of Clifford street; thence easterly along said center of Clifford street to the intersection with the center of Clinton avenue north; thence southerly along said center of Clinton avenue north to the intersection with the center of Main street east; thence westerly along the said center of Main street east to the place of beginning, constitutes the fifth ward.

6. **Sixth ward.**— All that part of the said city included within a line beginning at a point in the center of Main street east at its intersection with the center of North street extended southerly; thence northerly along the said center of North street to the intersection with the center of University avenue extended westerly; thence easterly along the said center of University avenue to the intersection with the center of Main street east; thence easterly along the said center of Main street east to the intersection with the center of the tracks of the main line of the New York Central and Hudson River railroad company; thence southeasterly along the center of said railroad company's tracks to the intersection with the east line of the Culver road; thence southerly along the said east line of the Culver road to the intersection with the center of East avenue; thence westerly along the said center of East avenue to the center of Main street east; thence westerly along the said center of Main street east to the place of beginning, constitutes the sixth ward.

7. **Seventh ward.**— All that part of the said city included within a line beginning at a point in the center of Main street east at its intersection with the center of Clinton avenue north; thence northerly along the said center of Clinton avenue north to a point where the center of Nassau street extended westerly would intersect the said center of Clinton avenue north; thence easterly on said extended line and the center of Nassau street to the intersection with the center of Joseph avenue; thence northerly along said center of Joseph avenue to the intersection with the center of Baden street; thence easterly along said center of Baden street to the intersection with the center of Hudson avenue; thence northerly along said center of Hudson avenue to the intersection with the center of Wilson street; thence easterly along said center of Wilson street to the intersection with the center of North street; thence southerly along said center of North street to the intersection with the center of Main street east; thence westerly along said center of Main street east to the place of beginning, constitutes the seventh ward.

8. **Eighth ward.**— All that part of the said city included within a line beginning at a point in the center of Clinton avenue north where the center of Nassau street extended westerly would intersect the said center of Clinton avenue north; thence northerly along said center of Clinton avenue north to the intersection with the center of Clifford street; thence easterly along said center of Clifford street to the intersection with the center of Portland avenue; thence southerly along said center of Portland avenue to the intersection with the center of North street; thence northerly along said center of North street to the intersection with the center of Wilson street; thence westerly along said center of Wilson street to the intersection with the center of Hudson avenue; thence southerly along said center of Hudson avenue to the intersection of Baden street; thence westerly along said center of Baden street to the intersection with the center of Joseph avenue; thence southerly along said center of Joseph avenue to the intersection with the center of Nassau street; thence westerly along said center of

Nassau street and said center extended westerly to the place of beginning, constitutes the eighth ward.

9. **Ninth ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center of Jay street extended northeasterly would intersect the same; thence southwesterly along said extended center of Jay street and along the said center of Jay street to the intersection with the center of the Erie Canal; thence northwesterly along the said center of the Erie Canal to a point where the southerly line of the lands of the state industrial school extended westerly intersects the center of the Erie canal; thence easterly along the said extended southerly line and the southerly line of the lands of the state industrial school to the southeasterly corner of said school lands; thence northerly along the easterly line of said school lands to a point where the center of Bloss street extended westerly would intersect the said easterly line of said school lands; thence easterly along said extended center and center of Bloss street to the intersection with the center of Fulton avenue; thence southeasterly along said center of Fulton avenue to the intersection with the center of Lorimer street; thence northeasterly along said center of Lorimer street and said center extended northeasterly to the intersection with the center of the Genesee river; thence southeasterly along said center of the Genesee river to the place of beginning, constitutes the ninth ward.

10. **Tenth ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center of Lorimer street extended northeasterly would intersect the same; thence southwesterly along said extended center of Lorimer street and along the said center of Lorimer street to the intersection with the center of Fulton avenue; thence northwesterly along the said center of Fulton avenue to the intersection with the center of Bloss street extended easterly; thence westerly along the said center of Bloss street and said center extended westerly to the easterly line of the lands of the state industrial school; thence southerly along the said easterly line of the lands of the

state industrial school to the southeasterly corner of said school lands; thence westerly along the southerly line of said state industrial school lands and said line extended westerly to the intersection with the center of Sherman street; thence southerly along the said center of Sherman street to the intersection with the center of Otis street; thence westerly along said center of Otis street and said center extended westerly to the intersection with the easterly line of lot number seventy-four of the town of Gates; thence northerly along the easterly line of lots numbers seventy-four and seventy-three, town of Gates, and lots numbers seventy-two, seventy-one and part of seventy, town of Greece, to a point twenty rods northerly of the center of the highway formerly known as the Big Ridge road, now known as Ridgeway avenue; thence easterly on a line parallel with the center of said Ridgeway avenue and twenty rods northerly therefrom measured at right angles and on said line extended easterly, to a point twelve hundred feet easterly from the easterly line of Lake avenue; thence northerly on a line parallel with Lake avenue ten hundred eleven feet to a point; thence north thirty-six degrees twenty-six minutes west eight hundred eighty-eight feet to a point; thence north twelve degrees four minutes west, to the center of a road leading to Hanford's landing; thence easterly along said center of the road leading to Hanford's landing to a point fifty feet westerly from the top of the westerly high bank of the Genesee river; thence northerly on a line parallel with the said top of the westerly high bank of the Genesee river and fifty feet distant westerly therefrom, to a point in the north line of lot number forty-one of the town of Greece, said line being also the north boundary line of the lands of William Merrill; thence easterly along said north line of town lot number forty-one and said line extended easterly to the intersection with the center of the Genesee river; thence southerly along the said center of the Genesee river to the place of beginning, constitutes the tenth ward.

11. **Eleventh ward.**— All that part of the said city included within a line beginning at a point in the center of Bronson avenue

at the intersection with the center of the lands of the Pennsylvania railroad company, being the lands formerly used and occupied by the Genesee Valley canal; thence westerly along said center of Bronson avenue to the intersection with the center of Genesee street; thence northerly along said center of Genesee street to the intersection with the center of Brown street; thence northeasterly along said center of Brown street to a point where the center of Saxton street extended southerly would intersect said center of Brown street; thence northerly along said extended line of Saxton street and along said center of Saxton street to the intersection with the center of Jay street; thence easterly and northeasterly along said center of Jay street to the intersection with the center of the Erie canal; thence southeasterly along said center of the Erie canal to a point at the intersection with the lands of the Pennsylvania railroad company, being the lands formerly used and occupied by the Genesee Valley canal, being where said Genesee Valley canal formerly connected with said Erie canal; thence southwesterly and southeasterly along said center of the lands of the Pennsylvania railroad company to the place of beginning, constitutes the eleventh ward.

12. Twelfth ward.— All that part of the said city included within a line beginning at a point in the center of East avenue where the intersection of the center of William street extended northerly would intersect the center of said East avenue; thence southeasterly along the center of said East avenue to the intersection with the easterly line of the Culver road; thence southwesterly along the said easterly line of the Culver road to a point two hundred fifty-two and four-tenths feet northeasterly from the northeasterly corner of said Culver road and Park avenue; thence southeasterly along a line to a point in the easterly line of Hawthorn street, formerly called Leighton street, where the northerly line of lot number thirty-six, town of Brighton, intersects the easterly line of said Hawthorn street; thence easterly along said northerly line of said town lot number thirty-six to a point in the northeasterly corner of said

town lot number thirty-six; thence southwesterly along the easterly line of said town lot number thirty-six to the intersection with the northern boundary line of the Erie canal lands; thence westerly along said northerly boundary line of the Erie canal lands to the intersection with the easterly line of Culver road; thence southwesterly along said easterly line of the Culver road to the intersection with the center of the said Erie canal; thence westerly and northwesterly along said center of the Erie canal to the intersection with the center of Alexander street; thence easterly and northeasterly along said center of Alexander street to the intersection with the center of Monroe avenue; thence northwesterly along said center of Monroe avenue to the intersection with the center of William street; thence northeasterly along said center of William street to the place of beginning, constitutes the twelfth ward.

13. **Thirteenth ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center of Howell street extended westerly would intersect the said center of the Genesee river; thence easterly along said extended center of Howell street to the intersection with the center of the Erie canal; thence southeasterly along said center of the Erie canal to the intersection with the center of South Goodman street; thence southerly along said center of South Goodman street to the intersection with the center of Caroline street; thence westerly along said center of Caroline street to the intersection with the center of South avenue; thence northerly along said center of South avenue to the intersection with the center of Averill avenue; thence westerly along said center of Averill avenue and said center extended westerly to the intersection with the center of the Genesee river; thence northerly along said center of the Genesee river to the place of beginning, constitutes the thirteenth ward.

14. **Fourteenth ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center of Averill avenue extended westerly would

intersect the said center of the Genesee river; thence easterly along said extended center and along the said center of Averill avenue to the intersection with the center of South avenue; thence southerly along said center of South avenue to the intersection with the center of Caroline street; thence easterly along said center of Caroline street to the intersection with the center of South Goodman street; thence northerly along said center of South Goodman street to the intersection with the center of the Erie canal; thence easterly along said center of the Erie canal to the intersection with the east line of the Culver road; thence southerly along said east line of the Culver road and said east line produced southerly to the north line of lot number thirty-seven of the town of Brighton; thence westerly along the north line of lots numbers thirty-seven, forty-five and fifty-three of the said town of Brighton, to a point in the north line of said lot number fifty-three, two hundred and ninety feet easterly from the northeast corner of lot number sixty-one in said town of Brighton; thence southerly on a line parallel with the east line of said lot number sixty-one to the northerly line of a highway known as Elmwood avenue; thence westerly along the northerly line of said Elmwood avenue about three hundred feet to the division line between said town lots numbers fifty-three and sixty-one; thence southerly along said division line between town lots fifty-three and sixty-one and along the division line between town lots numbers fifty-four and sixty-two of said town of Brighton, through land owned by the county of Monroe and along the easterly line of land formerly owned by Reuben N. Booth and now owned by the state of New York, about three thousand one hundred and twenty feet to land now or formerly owned by Hiram Smith; thence westerly along the division line between the lands owned by the said state of New York, formerly owned by said Booth, and land of said Smith, and along said line prolonged westerly, about two thousand three hundred feet to the westerly line of the highway known as South avenue; thence northerly along said westerly line of South avenue about six hundred and ninety feet to an angle in said highway;

thence continuing northerly along said westerly line of South avenue about two thousand two hundred and ninety-five feet to the northerly line of a highway known as Elmwood avenue; thence westerly along said northerly line of said Elmwood avenue to the intersection with the westerly line of the lands owned by the New York, Lake Erie and Western railroad company; thence southerly along the said westerly line of said lands owned by said railroad company to the intersection with the center of a highway known as the Westfall road; thence westerly along said center of the Westfall road to a point in the center of the said Westfall road, where the said road makes an angle to the north; thence southwesterly in a straight line twenty-four hundred feet through lands of Josiah Anstice, formerly known as the Harmon farm, and the Baker farm, to a point at a stone monument where the east shore of the Genesee river intersects the west line of the Wolcott road, so called; thence northeasterly along said east shore of the Genesee river about eight hundred and fifty feet to a point where the northerly line of a road running between the lands of E. Chapin and Mathias Kondolf lying on the west side of the Genesee river, extended westerly would intersect said east shore of the said Genesee river; thence westerly along said extended northerly line of said road to the intersection with the center of the Genesee river; thence northerly along said center of the Genesee river to the place of beginning, constitutes the fourteenth ward.

15. **Fifteenth ward.**— All that part of the said city included within a line beginning at a point in the center of the Erie canal at the intersection with the center of Jay street; thence southwesterly and westerly along said center of Jay street to the intersection with the easterly line of lot number seventy-five, town of Gates; thence northerly along the easterly line of lots numbers seventy-five and seventy-four of said town of Gates to a point where the center of Otis street extended westerly would intersect the said easterly line of said lot number seventy-four, town of Gates; thence easterly on said extended center and the center of said Otis street to the intersection with the center of Sherman

street; thence northerly along said center of Sherman street to a point where the southerly line of the lands of the state industrial school extended westerly would intersect the said center of Sherman street; thence easterly along said extended southerly line of the lands of said school to the intersection with the center of the Erie canal; thence southeasterly along said center of said Erie canal to the place of beginning, constitutes the fifteenth ward.

16. **Sixteenth ward.**— All that part of the said city included within a line beginning at a point in the center of North street at its intersection with the center of University avenue extended westerly; thence northerly along said center of North street to the intersection with the center of Portland avenue; thence northerly along said center of Portland avenue to the intersection with the center of Bay street; thence easterly along said center of Bay street to the intersection with the center of Hebard street; thence southerly along said center of Hebard street to the intersection with the center of the tracks of the main line of the New York Central and Hudson River railroad company; thence southeasterly along said center of said railroad company's tracks to the intersection with the center of Main street east; thence southwesterly along said center of Main street east to the intersection with the center of University avenue; thence northwesterly along said center of University avenue to the place of beginning, constitutes the sixteenth ward.

17. **Seventeenth ward.**— All that part of the said city included within a line beginning at a point in the center of the Genesee river where the center line of Avenue E extended westerly would intersect the said center of the Genesee river; thence northerly along the said center of the Genesee river to a point where the north line of lot forty-one of the town of Greece, said line being also the north boundary line of the lands of William Merrill, extended easterly would intersect the said center of the Genesee river; thence easterly on said extended north line of the lands of said William Merrill to the east shore of the Genesee river; thence northerly along the said east shore of the Genesee river following

its various courses to the intersection with the north line of lot number fourteen in the town of Irondequoit; thence easterly along the said north line of lot fourteen to the intersection with the east line of the lands owned by the Rome, Watertown and Ogdensburg railroad company; thence southerly along the said east line of the lands of Rome, Watertown and Ogdensburg railroad company to the intersection with the center of the Ridge road; thence westerly along the said center of the Ridge road to a point, said point being in the center of the Ridge road and eight chains and seventy links distant easterly from the top of the east high bank of the Genesee river; thence south fifteen minutes east along a line to the intersection with the north line of Norton street; thence easterly along said north line of Norton street to the intersection with the center of Hudson avenue; thence southerly along said center of Hudson avenue to the intersection with the center of Clifford street; thence westerly along said center of Clifford street to the intersection with the center of Conkey avenue; thence southerly along said center of Conkey avenue to the intersection with the center of Evergreen street; thence westerly along said center of Evergreen street to the intersection with the center of Durgin street; thence northerly along said center of Durgin street to the intersection with the center of Clifford street; thence easterly along said center of Clifford street to the intersection with the center of Harris street; thence northerly along said center of Harris street to the intersection with the center of Avenue D; thence westerly along said center of Avenue D to the intersection with the center of an alley, said center of the alley being about one hundred and ninety-two feet easterly from the easterly line of Saint Paul street; thence northerly along the said center of said alley to the intersection with the center of Avenue E; thence westerly along said center of Avenue E and said center extended to the place of beginning, constitutes the seventeenth ward.

18. **Eighteenth ward.**— All that part of the said city included within a line beginning at a point in the center of Portland avenue at its intersection with the center of Clifford street; thence easterly

along said center of Clifford street to the intersection of the southerly line of the highway called Waring road extended southeasterly to meet the easterly line of the Culver road; thence southeasterly along said southerly line of said Waring road to the intersection with the easterly line of the Culver road; thence southwesterly along the easterly line of the Culver road to the intersection with the center of the tracks of the main line of the New York Central and Hudson river railroad company; thence northwesterly along the center of said railroad company's tracks to the intersection with the center of Hebard street; thence northerly along said center of Hebard street to the intersection with the center of Bay street; thence westerly along said center of Bay street to the intersection with the center of Portland avenue; thence northerly along said center of Portland avenue to the place of beginning, constitutes the eighteenth ward.

19. **Nineteenth ward.**— All that part of the said city included within a line beginning at a point in the center of Bronson avenue at the intersection with the lands of the Pennsylvania railroad company, being the lands formerly used and occupied by the Genesee Valley canal; thence southeasterly along said center of the lands of the Pennsylvania railroad company to a point at the intersection with the south line of the Strong tract; thence southeasterly along the south line of the Strong tract and said south line extended to the intersection with the center of the Genesee river; thence southwesterly, westerly, and southerly along said center of the Genesee river to a point where the northerly line of a road running between the lands of E. Chapin and Mathias Kondolf lying on the west side of the Genesee river, extended westerly, would intersect the said center of the Genesee river; thence westerly along said extended northerly line and said northerly line of said road to the intersection with the easterly line of the lands of the Pennsylvania railroad company, being the lands formerly used and occupied by the Genesee Valley canal; thence northeasterly along said easterly line of said lands of the Pennsylvania railroad company to a point where the center of

Genesee street extended southerly would intersect the said easterly line of the lands of the Pennsylvania railroad company; thence northeasterly along said extended center of Genesee street, being the center line of a highway which is a continuation of Genesee street, to the intersection with the division line, being the southerly boundary line of the former town of Gates and the northerly boundary line of the town of Chili; thence westerly along said division line between the former town of Gates and the town of Chili to a point two hundred feet westerly of the west line of a highway known as the Thurston road; thence northerly on a line parallel with the west line of said Thurston road and two hundred feet westerly therefrom to the intersection with the northerly line of Brooks avenue, thence easterly along the northerly line of said Brooks avenue to a point where the east line of lot number one hundred and sixty-eight of the twenty thousand acre tract, town of Gates, extended southerly through lots numbers ten, twenty-two and thirty-four of the four thousand acre tract of said town of Gates, intersects the northerly line of said Brooks avenue; thence northerly along said extended east line of said lot number one hundred and sixty-eight to a point thirty feet southerly at right angles from the south line of said lot number twenty-two of the four thousand acre tract; thence westerly along a line parallel with the said south line of said lot number twenty-two and thirty feet southerly therefrom at right angles to the intersection with the east line of said Thurston road; thence northerly along the said east line of the Thurston road to the intersection with the north line of said lot number twenty-two of said four thousand acre tract; thence easterly along said north line of lot number twenty-two to a point where the aforesaid east line of said lot number one hundred and sixty-eight extended southerly would intersect the said north line of said lot number twenty-two; thence northerly along said extended east line of said lot number one hundred and sixty-eight and along said east line of said lot one hundred and sixty-eight to the intersection with the center of Chili avenue; thence northeasterly along said center of Chili

avenue to the intersection with the center of West avenue; thence westerly along said center of West avenue to the intersection of the center of Genesee street extended northerly; thence southerly along said center of Genesee street to the intersection with the center of Bronson avenue; thence easterly along said center of Bronson avenue to the place of beginning, constitutes the nineteenth ward.

20. **Twentieth ward.**— All that part of the said city included within a line beginning at a point in the center of West avenue where the center of Genesee street extended northerly would intersect the said center of West avenue; thence westerly along said center of West avenue to the intersection with the center of Chili avenue; thence southwesterly along said center of Chili avenue to the intersection with the east line of lot number one hundred and sixty-eight of the twenty thousand acre tract, town of Gates; thence northerly along said east line of lot number one hundred and sixty-eight to a point twelve feet southerly, measured at right angles, from the northerly line of a highway known as Chili road; thence southwesterly along a line parallel to said northerly line of the Chili road and twelve feet distant southerly therefrom, to a point in the westerly line of Gardiner avenue extended southerly; thence northerly along said extended line and the westerly line of Gardiner avenue to a point sixty feet northerly from the northerly line of said Chili road; thence westerly along a line at right angles with said Gardiner avenue seventy-five feet; thence southerly along a line parallel with said Gardiner avenue to a point twelve feet southerly, measured at right angles, from the northerly line of said Chili road; thence southwesterly along a line parallel with said northerly line of the Chili road and twelve feet distant southerly therefrom, to a point where a line twelve feet westerly of the easterly line of Lincoln avenue extended southerly would intersect the same; thence northerly along said extended line and a line parallel to and twelve feet westerly measured at right angles from the said easterly line of Lincoln avenue, to a point where a line twelve feet northerly of the south-

erly line of a highway called the Buffalo road, extended westerly would intersect the same; thence easterly along said extended line and a line parallel with and twelve feet northerly measured at right angles from the southerly line of said Buffalo road, to the east line of lot number one hundred and sixty-eight of the town of Gates; thence northerly along the east line of lots one hundred and sixty-eight, seventy-six and seventy-five of the said town of Gates, to the intersection with the center of Jay street; thence easterly along the said center of Jay street to the intersection with the center of Saxton street; thence southerly along said center of Saxton street and said center extended southerly to the intersection with the center of Brown street; thence southwesterly along said center of Brown street to the place of beginning, constitutes the twentieth ward.

21. **Twenty-first ward.**— All that part of the said city included within a line beginning at a point in the southeast corner of the Culver road and Atlantic avenue, formerly known as University avenue, said point being in the northwesterly corner of the former village of Brighton, now in the city of Rochester; thence southeasterly along a line, being the northerly boundary line of the said former village of Brighton about seven thousand and fifty feet to a point in the easterly line of lot number nineteen, town of Brighton, being also in the northeasterly corner of the said former village of Brighton; thence southwesterly along the easterly line of lots numbers nineteen and twenty, town of Brighton, being also the easterly line of the former village of Brighton, about three thousand nine hundred and sixty feet to a point in the southeasterly corner of said former village of Brighton; thence northwesterly along a line, being the southerly line of said former village of Brighton, to its intersection with the easterly line of lot number thirty-six, town of Brighton; thence southerly along said easterly line of said town lot number thirty-six to a point about four hundred feet northerly from the northerly line of a highway known as Highland avenue, and where the southerly line

of the lands of the proposed Rochester city reservoir, produced easterly, would meet the same; thence westerly along said line produced and along said southerly line about eight hundred feet to a stone monument, said monument being fifty feet easterly, measured at right angles, from the division line between the lands formerly owned by Edna C. Cobb and lands of Lillian C. Davis; thence southerly on a line parallel to said division line and fifty feet easterly, measured at right angles therefrom, about two hundred and ninety feet to a stone monument in the northerly line of said Highland avenue; thence southerly at right angles to said Highland avenue forty-nine and one-half feet to a point in the southerly line of said Highland avenue; thence westerly along the said southerly line of Highland avenue and said line extended westerly to its intersection with the southwesterly line of Monroe avenue; thence northwesterly on said southwesterly line of Monroe avenue to the lands of the Rochester orphan asylum; thence southwesterly along the division line between said lands of said orphan asylum and lands of Ellwanger and Barry to the intersection with the east line of the Culver road extended southerly to the north line of lot number thirty-seven, town of Brighton; thence southwesterly along said extended east line of the Culver road to the said north line of said town lot number thirty-seven; thence westerly along the said north line of said town lot number thirty-seven to the lands of the said Rochester orphan asylum; thence southwesterly along the division line between the lands of said orphan asylum and the lands of Ellwanger and Barry to a point which is eight hundred and forty and two-tenths feet from the center of Monroe avenue measured on said division line; thence southeasterly along the division line between said lands of said orphan asylum and lands of Ellwanger and Barry, four hundred four and fifty-nine one-hundredths feet to the northerly line of Highland avenue; thence southwesterly along the said northerly line of Highland avenue eight hundred ninety-four and five-tenths feet to a stone monument; thence

northwesterly along the division line between lands of the said Rochester orphan asylum and the lands now or formerly owned by James D. Cobb, one hundred ninety-nine and seventy-seven one-hundredths feet to a stone monument; thence westerly along the division line between said Cobb lands and lands of the said Rochester orphan asylum, five hundred seventeen and eight-tenths feet to a stone monument; thence northeasterly along the division line between lands conveyed by Laura B. Adams to Willard Hodges by deed recorded in liber three hundred and thirteen of deeds at page three hundred and fifty-nine, Monroe county clerk's office, and of the said Rochester orphan asylum, three hundred fifty-nine and seven-tenths feet to a stone monument; thence easterly along the northerly line of said lands of the Rochester orphan asylum four hundred seventeen feet to the intersection of said last mentioned line with the center of Adelaide street extended southerly; thence northeasterly along said line of the center of Adelaide street extended southerly to its intersection with the north line of lot number forty-five of the town of Brighton; thence easterly along the north line of lots numbers forty-five and thirty-seven of the said town of Brighton to a point where the easterly line of the Culver road extended southerly would meet the said northerly line of lots numbers forty-five and thirty-seven; thence northerly along the said easterly line of the Culver road extended southerly and the said easterly line of the Culver road to the intersection with the northerly line of the Erie canal lands; thence easterly along the said northerly line of said Erie canal lands to the easterly line of lot number thirty-six of the town of Brighton; thence northerly along said easterly line of said town lot number thirty-six to the northeast corner of said town lot number thirty-six; thence westerly along the northerly line of said town lot number thirty-six to a point where the said line intersects the easterly line of Hawthorn street, formerly Leighton street; thence northwesterly along a line to the intersection with the easterly line of the Culver road at a point two hundred fifty-two and four-tenths feet northerly of where the northerly line of Park

avenue intersects the said easterly line of the said Culver road; thence northerly along the said easterly line of the said Culver road to the place of beginning, constitutes the twenty-first ward.

22. **Twenty-second ward.**— All that part of the said city included within a line beginning at a point in the center of Clifford street at its intersection with the center of Hudson avenue; thence northerly along said center of Hudson avenue to the intersection with the north line of Norton street; thence easterly along said north line of Norton street to a point thirty-three feet westerly from the center line of the Woodman road, so called, said Woodman road being upon the division line between lots numbers forty-one and forty-three of the town of Irondequoit; thence northerly and northeasterly along a line parallel to said center line of said Woodman road and thirty-three feet westerly therefrom to a point thirty-three feet southerly from the center line of a road running westerly to the junction with the Hoffman road, so called, and the Wisner road, so called; thence northwesterly along a line parallel to said center line of said road and thirty-three feet southerly therefrom to a point thirty-three feet westerly from the center line of said Wisner road; thence northeasterly and northwesterly along a line parallel to said center line of the Wisner road and thirty-three feet westerly therefrom to a point in the south line of lot number eight of the lake tract in the town of Irondequoit, said line being also the southerly line of the lands Joseph Bucker and wife conveyed to Henry S. Durand by an agreement recorded in Monroe county clerk's office in liber seven hundred and forty-five of deeds at page seven; thence westerly along said south line of said lot number eight and being along the southerly line of said land of Henry S. Durand by said agreement, to a point in the southwest corner of said Henry S. Durand's land; thence northeasterly along the westerly line of said Henry S. Durand's land to a point in the southerly line of lot number seven of the said lake tract, being also in the southerly line of four acres of land conveyed to Henry S. Durand by deed from Adam Wiesner and wife recorded in Monroe county clerk's office in liber six hundred

and six of deeds at page four hundred and forty-nine; thence westerly along the said southerly line of said Henry S. Durand's land to a point in the southwest corner thereof; thence northerly along the westerly line of said Henry S. Durand's land to a point in the southerly line of fourteen and fifty-five hundredths acres of land conveyed to said Henry S. Durand by deed from J. P. Lacour and others and recorded in Monroe county clerk's office in liber six hundred and ninety-four of deeds at page twenty-eight; thence westerly along the said southerly line of Henry S. Durand's land to a point in the southwest corner thereof, said point being also in the westerly line of said lot number seven of the lake tract; thence northerly along said westerly line of said lot number seven to a point in the southeasterly corner of lot number eleven of the town of Irondequoit, said point being also the southeasterly corner of land formerly owned by Thomas Delapp and conveyed to George Eastman by deed from Nelson P. Sanford recorded in Monroe county clerk's office in liber seven hundred and fifty-four of deeds at page two hundred and fifty-eight; thence westerly along the southerly line of land deeded to said George Eastman, being also the division line between lots numbers eleven and twenty-one of the town of Irondequoit, to a point at a stake in the northwest corner of said lot number twenty-one; thence along said George Eastman's land south fifty-one degrees west, six chains to a stake; thence along said Eastman's land north nine degrees forty-five minutes west, to a point in the north line of lot number twenty, town of Irondequoit, distant five chains and seventy-eight links westerly from the northeast corner of said lot number twenty; thence westerly along the southerly line of said George Eastman's land to a point in the southwest corner of said land, said point being in the southwest corner of said lot number eleven; thence northerly along the westerly line of said George Eastman's land and the westerly line of land conveyed to Henry S. Durand by Dominiek Barrett by deed recorded in Monroe county clerk's office in liber six hundred and eight of deeds at page four hundred and eighty-eight, to a point in the southeasterly line

of a highway running northerly; thence northerly and northeasterly along the easterly and southerly line of said highway following the boundaries of said land deeded to said Henry S. Durand, to a point where the westerly line of the land formerly owned by Michael Larkin, senior, and conveyed by deed from Nelson P. Sanford to George Eastman and recorded in Monroe county clerk's office in liber seven hundred and forty of deeds at page twenty-nine, produced southerly would meet the same; thence northwesterly along the westerly line of said George Eastman's land to the northwesterly corner thereof; thence easterly along the northerly line of said George Eastman's land to a point, said point being the westerly line of land formerly owned by Ludwig Mengel and wife and conveyed by deed from Nelson P. Sanford to said George Eastman and recorded in Monroe county clerk's office in liber seven hundred and thirty-four of deeds at page two hundred sixty; thence northerly along said westerly line of the land of said George Eastman to the high water mark on the southerly shore of Lake Ontario; thence easterly along the said high water mark on the southerly shore of Lake Ontario to a point where the easterly line of the land conveyed by Adam Wiesner and wife to Henry S. Durand by deed recorded in Monroe county clerk's office in liber six hundred six of deeds at page four hundred and forty-nine, extended northerly, would meet the same; thence southerly along said extended line and the said easterly line of the land of Henry S. Durand and the easterly line of land formerly owned by Charles S. Baker and conveyed by deed from Nelson P. Sanford to George Eastman recorded in Monroe county clerk's office in liber seven hundred forty of deeds at page thirty, to a point in the north line of lot number seven of the lake tract, said north line being also the north line of the east part of said George Eastman's land; thence easterly along said north line of said George Eastman's land to a point in the westerly line of Woodman road, so called; thence southerly along the said westerly line of said Woodman road, following the boundaries of the said land deeded to said George Eastman, to a point in the south line of said George East-

man's land; thence westerly along the south line of said George Eastman's land to a point in the easterly line of land Joseph Bucker and wife conveyed to Henry S. Durand by an agreement recorded in Monroe county clerk's office in liber seven hundred forty-five of deeds at page seven; thence southerly along said easterly line of said Henry S. Durand's land to a point in the southeasterly corner thereof, said point being also in the south line of lot number eight of the lake tract; thence westerly along the southerly line of said lands of said Henry S. Durand, being also the south line of said lot number eight, to a point thirty-three feet easterly measured at right angles from the center of the Wisner road, so called; thence southeasterly and southwesterly along a line parallel to said center line and thirty-three feet easterly therefrom to a point thirty-three feet northerly from the center line of a road running easterly at the junction with the Hoffman road, so called, thence southeasterly along a line parallel to said center line and thirty-three feet northerly therefrom, to a point thirty-three feet easterly from the center line of the Woodman road, so called; thence southwesterly and southerly along a line parallel to said center line and thirty-three feet easterly therefrom, to a point in the southerly line of Norton street; thence westerly along said southerly line of said Norton street, to a point at a distance of two hundred feet easterly from the east line of lot number forty-eight, formerly in the town of Irondequoit, now in the city of Rochester; thence southerly along a line parallel with the said east line of said lot number forty-eight and at a distance of two hundred feet easterly therefrom, to a point in the southerly line of the highway called Waring road; thence southeasterly along the said southerly line of said Waring road to a point in the northerly line of land conveyed to the city of Rochester by deed from Catherine V. Ayres and recorded in Monroe county clerk's office in liber six hundred and sixty-two of deeds at page three hundred and sixteen; thence easterly along said line across the said Waring road and continuing easterly on said line between said lands now of the city of Roch-

ester and of Joseph Costich, junior, on the south and the land of Rudolf and John Schneeberger on the north of said line, to a point in the northerly line of the right of way of the east side trunk sewer overflow through Densmore creek, as shown on a map on file in the city engineer's office; thence northeasterly along the northerly line of said right of way following its several courses across the land of said Rudolf and John Schneeberger to a point in the division line between the lands of said Schneeberger and of Christopher J. Loos, junior; thence northerly along said division line between said lands, to a point in the division line between the lands of said Christopher J. Loos, junior, and of Joseph Costich; thence easterly along said division line between said lands of said Loos and Costich to a point in the aforesaid northerly line of right of way; thence northeasterly along said right of way, following its several courses, across the land of said Joseph Costich, junior, to a point in the west line of the Forest House road, so called; thence easterly across the said Forest House road to a point in the east line thereof where the northerly line of the said right of way of the east side trunk sewer overflow across the land of Sepherine Costich meets the same; thence northeasterly along said northerly line of said right of way, following its several courses, across the land of said Sepherine Costich, to a point in the division line between the lands of said Sepherine Costich and of Gilbert Costich; thence westerly along said division line between said lands of said Sepherine Costich and Gilbert Costich to a point where the northerly line of said right of way of said east side trunk sewer overflow across the lands of said Gilbert Costich pursuant to an easement given by said Gilbert Costich and wife to the city of Rochester and recorded in Monroe county clerk's office in liber six hundred and seventy-six of deeds at page twenty-one, meets the same; thence northeasterly along said northerly line of said right of way, following its several courses, across the land of said Gilbert Costich to a point in the division line between the lands of said Gilbert Costich and of Lewis Herman; thence southerly along said division line between the said lands of Costich and

Herman, to a point where the said northerly line of the said right of way across the lands of said Lewis Herman meets the same; thence easterly and northerly along said northerly line of right of way, following its several courses, across the lands of said Lewis Herman, to a point in the southerly line of Norton street, so called; thence northerly across said Norton street to a point in the northerly line thereof where the said northerly line of said right of way across the lands of Richard Costich meets the same; thence northerly and easterly along said northerly line of right of way, following its several courses, across the land of said Richard Costich to a point in the division line between the land of said Richard Costich and Henry Livingston; thence easterly along said northerly line of right of way across the land of said Henry Livingston to a point in the division line between the lands of said Henry Livingston and John L. Koehler; thence northerly along said division line between the lands of said Henry Livingston and said John L. Koehler, to a point where the northerly line of said right of way across the land of said John L. Koehler would meet the same; thence easterly along said northerly line of right of way, following its several courses, across the land of said John L. Koehler to the westerly line of a road running northerly between the lands of said John L. Koehler and William H. Perrin; thence southerly along said westerly line of said road to a point where the northerly line of said right of way across the lands of William H. Perrin extended westerly across said road meets the same; thence easterly along said extended line and the said northerly line of said right of way, following its several courses, across the land of said William H. Perrin to a point in the division line between the land of said William H. Perrin and Frank H. Erbland; thence northerly along said division line between the lands of said William H. Perrin and said Frank H. Erbland to a point where the said northerly line of said right of way across the lands of said Frank H. Erbland meets the same; thence easterly and northerly along said northerly line of said right of way, following its several courses, across the land of said Frank H. Erbland to a point in the

division line between the lands of said Frank H. Erbland and George A. Meisenzahl; thence northerly and easterly along said northerly and westerly line of right of way, following its several courses, across the land of said George A. Meisenzahl, to a point in the division line between the lands of said George A. Meisenzahl and Josepha Zwerger; thence northerly and easterly along said right of way, following its several courses, across the land of said Josepha Zwerger to a point in the division line between the lands of said Josepha Zwerger and J. Sebastian Zwerger; thence easterly along said northerly line of right of way, following its several courses, across the land of said J. Sebastian Zwerger, to a point in the division line between the lands of said J. Sebastian Zwerger and Emil Dozier; thence easterly along said northerly line of right of way, following its several courses, across the land of said Emil Dozier, to a point in the division line between the lands of said Emil Dozier and Caroline Griebel; thence easterly along said northerly line of right of way, following its several courses, across the lands of said Caroline Griebel, to a point on the westerly shore of Irondequoit bay; thence southerly along the westerly shore of Irondequoit bay to a point where the southerly line of said right of way of the east side trunk sewer through Densmore creek meets the same; thence westerly along said southerly line of right of way, following its several courses, across the land of said Caroline Griebel, to a point in the division line between the lands of said Caroline Griebel and J. Sebastian Zwerger; thence westerly along said right of way, following its several courses, across the land of said J. Sebastian Zwerger, to a point in the division line between the lands of said J. Sebastian Zwerger and Josepha Zwerger; thence westerly and southerly along said southerly line of right of way, following its several courses, across the land of said Josepha Zwerger to a point in the division line between the lands of said Joseph* Zwerger and George A. Meisenzahl; thence southerly and westerly along said southerly and easterly line

* So in original.

of right of way, following its several courses, across the land of said George A. Meisenzahl to a point in the division line between the lands of said George A. Meisenzahl and Frank H. Erbland; thence southerly and westerly along said southerly line of right of way, following its several courses, across the land of said Frank H. Erbland to a point in the division line between the lands of said Frank H. Erbland and William H. Perrin; thence northerly along said division line between the lands of said Frank H. Erbland and William H. Perrin, to a point where the said southerly line of said right of way across the land of said William H. Perrin meets the same; thence westerly along said southerly line of right of way, following its several courses, across the land of said William H. Perrin, and along said southerly line of said right of way extended westerly across a road running northerly, between the lands of said William H. Perrin and John L. Koehler, to a point in the westerly line of said road; thence southerly along said westerly line of said road to a point where the southerly line of said right of way of the east side trunk sewer overflow through Densmore creek across the land of said John L. Koehler meets the same; thence westerly along said southerly line of said right of way, following its several courses, across the land of said John L. Koehler, to a point in the division line between the lands of said John L. Koehler and Henry Livingston; thence northerly along said division line between the lands of said John L. Koehler and Henry Livingston to a point where the southerly line of said right of way across the land of said Henry Livingston meets the same; thence westerly along said southerly line of said right of way, following its several courses, across the land of said Henry Livingston to a point in the division line between the lands of said Henry Livingston and Richard Costich; thence westerly and southerly along said southerly line of said right of way, following its several courses, across the land of said Richard Costich to a point in the northerly line of Norton street, so called; thence along said southerly line of right of way extended to a point in the southerly line of said Norton street;

thence easterly along said southerly line of said Norton street to a point where the said southerly line of right of way through the land of Sepherine Case would meet the same; thence southwesterly along the said southerly line of right of way across the land of said Sepherine Case to a point in the division line between the lands of said Sepherine Case and Lewis Herman; thence northerly along said division line between the lands of said Sepherine Case and Lewis Herman to a point where the said southerly line of right of way across the said land of said Lewis Herman meets the same; thence southwesterly along said southerly line of right of way, following its several courses, across the land of said Lewis Herman to a point in the division line between the lands of said Lewis Herman and Gilbert Costich; thence westerly and southwesterly along said southerly line of right of way, following its several courses, across the land of said Gilbert Costich to a point in the division line between the lands of said Gilbert Costich and Sepherine Costich; thence westerly along said southerly line of right of way across the land of said Sepherine Costich, following its several courses, to a point in the easterly line of the Forest House road, so called; thence westerly across said Forest House road to a point in the westerly line thereof where the southerly line of said right of way of the east side trunk sewer overflow through Densmore creek, across the land of Joseph Costich, junior, meets the same; thence southwesterly along said southerly line of said right of way, following its several courses, across the land of said Joseph Costich, junior, to a point in the division line between the lands of said Joseph Costich, junior, and Christopher J. Loos, junior; thence southwesterly along said southerly line of said right of way, following its several courses, across the land of said Christopher J. Loos, junior, to a point in the division line between the lands of said Christopher J. Loos, junior, and Rudolph and John Schneeberger; thence southerly along said division line between the lands of said Loos and Schneeberger to a point in the division line between

the lands of said Schneeberger and Joseph Costich, junior; thence westerly along said division line between the lands of said Schneeberger and Costich to a point in the southerly line of said right of way of said east side trunk sewer overflow, across the land of said Joseph Costich, junior, where it meets the same; thence southwesterly along the southerly line of said right of way, across the land of said Joseph Costich, junior, to a point in the easterly line of the highway called Waring road; thence along said southerly line of said right of way extended westerly across said Waring road, to a point in the westerly line thereof; thence southeasterly along said southerly line of said Waring road and the said line extended to the intersection with the center of Clifford street; thence westerly along the said center of Clifford street to the place of beginning, constitutes the twenty-second ward.

ARTICLE II.

Officers.

Section 14. Elective officers.
15. Appointive officers.
16. Qualifications.
17. Term of office of elective officers.
18. Term of office of appointive officers.
19. Certificate of appointment.
20. Official oath and undertaking.
21. Fixed salaries.
22. Power to authorize expenditures.
23. Expenditures in excess of appropriations prohibited.
24. Additional fees or compensation not to be paid.
25. Officers not to be interested in contracts.
26. Restrictions as to holding office.
27. Charges against city officers.
28. Estimates of departments.
29. Annual reports.

Section 30. Vacancies.
31. Resignations.
32. Elections.

Section 14. **Elective officers.**— The officers elected by the electors of the city are: mayor, president of the common council, comptroller, treasurer, four assessors, five commissioners of schools, police justice, and two judges of the municipal court. The officers elected by the electors of each ward are: alderman, supervisor and constable.

§ 15. **Appointive officers.**— The officers appointed by the mayor are: commissioner of public works, city engineer, twenty-one commissioners of parks, commissioner of public safety, commissioner of charities, corporation counsel, three commissioners of Mount Hope, four commissioners of markets, three examiners of stationary engineers, two midwife examiners, commissioners of deeds, and such other officers as he is authorized to appoint by this act or otherwise by law, or whose appointment is not otherwise provided for.

§ 16. **Qualifications.**— Every person appointed or elected to office must reside in the city at least five months previous to his election or appointment. A person elected to the office of alderman, supervisor or constable must reside in the ward from which he is elected at least five months previous to his election. No person is eligible to the office of police justice, judge of the municipal court, or corporation counsel, unless he has been admitted to practice as an attorney and counselor in the courts of the state of New York and has had at least five years' active practice in his profession; or to the office of city engineer unless he is a civil engineer and has had at least five years' active practice in his profession; or to the office of midwife examiner unless he is a physician and surgeon duly authorized to practice medicine under the laws of this state and has had at least five years' active practice in his profession. The qualifications of examiners of stationary engineers may be determined from time to time by

ordinance of the common council. If an officer remove from the city, or an alderman, supervisor or constable remove from the ward from which he is elected, his office thereupon becomes vacant.

§ 17. **Term of office of elective officers.**— The term of office of each elective officer commences on the first day of January succeeding his election and is for a period of two years, except that the term of office of commissioners of schools and assessors is four years, of the police justice and the judges of the municipal court, six years.

§ 18. **Term of office of appointive officers.**— The term of office of midwife examiners is two years; of commissioners of Mount Hope, of commissioners of markets, and of examiners of stationary engineers, three years; and of commissioners of parks, four years; such term of office to be computed from the first day of January in the year in which the appointment is made. The term of office of commissioner of deeds is of such duration as is or may be fixed by law. All other officers appointed by the mayor hold office during his pleasure, unless otherwise specified in this act or by law.

§ 19. **Certificate of appointment.**— Every appointment to a city office must be made by a certificate in writing signed by the appointing officer, or if made by a board, by the presiding officer thereof, and filed in the office of the city clerk.

§ 20. **Official oath and undertaking.**— Every officer, before entering upon his duties, must file with the city clerk the constitutional oath of office, and if required by ordinance of the common council, an undertaking in the amount required by such ordinance, approved by the mayor as to the sufficiency of the sureties and by the corporation counsel as to its form and validity. In case any officer fail to file the oath of office or an undertaking if required, within fifteen days after the commencement of his term of office, if an elective office, and if an appointive office, within fifteen days after he enters upon his duties, his office is deemed vacant and the vacancy must be filled as herein provided.

§ 21. **Fixed salaries.**— The annual salary of the mayor is

five thousand dollars; of the comptroller, three thousand five hundred dollars; of the treasurer, three thousand five hundred dollars; of each commissioner of schools, twelve hundred dollars; of the president of the common council, one thousand dollars; of each alderman, seven hundred and fifty dollars. The salary of each midwife examiner is ten dollars per day for each day actually engaged in the performance of duties as such.

§ 22. **Power to authorize expenditures.**— The heads of departments, the separate boards provided for in this act or otherwise by law, and the judges of courts, are empowered to authorize expenditures of money in their respective departments, boards or courts, except that in the department of finance the comptroller and the treasurer are empowered to authorize expenditures of money for their respective offices; and the board of estimate and apportionment is empowered to authorize expenditures from the contingent appropriation or other appropriations made for the general purposes of the city. Such power to authorize expenditures of money is subject to the methods and limitations otherwise imposed by this act or by law as to the expenditures of money.

§ 23. **Expenditures in excess of appropriations prohibited.**— No department, board, court or officer is permitted during any fiscal year to expend or contract to be expended any money, or to enter into any contract which by its terms involves the expenditures of money in excess of the amounts appropriated in the annual estimate adopted by the common council or otherwise lawfully added thereto for such department, board, court or office for such fiscal year; and the board of estimate and apportionment is not permitted during any fiscal year to expend or contract to be expended any money, or to enter into any contract which by its terms involves the expenditures of money for general purposes of the city in excess of the amounts appropriated in the annual estimate adopted by the common council or otherwise lawfully added thereto for the contingent appropriation or other appropriations for the general purposes of the city for such fiscal year; and in cases in which this act provides that specific appropriations must be made

for bureaus in departments, this prohibition applies to expenditures in excess of the amounts appropriated in the annual estimate adopted by the common council or otherwise lawfully added thereto for such bureaus; and the moneys appropriated for such bureaus must not be used for any purposes of the department other than those of the bureau for which the appropriation is made. Any contract, verbal or written, made in violation of this section, is null and void as to the city, and no moneys belonging to the city must be paid thereon; provided, however, that nothing herein contained prevents the making of contracts which are specifically authorized by this act to be made for periods exceeding one year. Nothing herein contained prohibits the commissioner of public safety from expending such sums or incurring such debts as may be actually necessary to prevent the spread of or to suppress any contagious or infectious disease or any epidemic in the city, in addition to the amount appropriated for such purpose or otherwise lawfully added thereto. Any officer of the city making or voting for any contract prohibited by this section, or certifying any account or claim or making any requisition prohibited thereby, is guilty of a misdemeanor.

§ 24. **Additional fees or compensation not to be paid.**— No officer of the city receiving a stated salary or compensation, except corporation counsel, may have or receive to his use any perquisites, compensation or fees for services pertaining directly or indirectly or which may hereafter be added to the duties of his office, in addition to his salary; and all perquisites, compensation and fees paid to and received by any such officer for services pertaining directly or indirectly or which may hereafter be added to the duties of his office, other than his salary received from the city, are the property of the city and must be paid by the officer receiving the same into the city treasury.

§ 25. **Officers not to be interested in contracts.**— Every officer and employee of the city is prohibited from being interested, directly or indirectly, in any contract to which the city is a party,

either as principal, surety or otherwise; or in any purchase from or sale to the city, its boards or officers, of any real or personal property; or in any work performed for or services rendered to the city, its boards or officers, other than the work or services imposed upon them by their office or position. Any contract made in violation of these provisions is void. This section does not apply to financial transactions between financial institutions and the city, its boards or officers, and does not include a commissioner of deeds.

§ 26. **Restrictions as to holding office.**— No person may at the same time hold more than one city office, and upon the acceptance of a second office the first office becomes vacant. The term "city office" as used in this section does not include that of commissioner of deeds or constable.

§ 27. **Charges against city officers.**— Any officer of the city or clerk of the police court or municipal court may be removed for cause, after due notice and an opportunity of being heard, by the appellate division of the supreme court, fourth department, in a proceeding instituted by the petition of at least three-fourths of all the members of the common council. This section does not restrict the right of removal otherwise vested in any board or official of the city, but is an additional method of removal in such cases.

§ 28. **Estimates of departments.**— On or before the first day of November in each year, all heads of departments, boards, judges of courts, and officers empowered to authorize expenditures of money, except Mount Hope commission, must furnish to the mayor estimates in writing of the amount required for expenditures for the next fiscal year in their respective departments, boards, courts or offices, including an estimate for bureaus for which separate appropriations are to be made; provided, however, that the estimate of the department of public instruction must be submitted on or before the thirty-first day of December in each year.

§ 29. **Annual reports.**— All heads of departments, boards, judges of courts and officers empowered to authorize expenditures

of money, must present to the mayor, on or before the thirty-first day of December in each year, a report of their proceedings during the current year.

§ 30. **Vacancies.**— Vacancies in elective offices arising otherwise than by expiration of term are filled as follows: If in the office of mayor, the president of the common council becomes mayor during the unexpired term; if in the office of president of the common council, the president pro tempore of the common council becomes president of the common council during the unexpired term; if in the office of alderman, it is filled by appointment by the common council for the unexpired term; if in the office of supervisor, it is filled by appointment by the common council, and the person so appointed holds office until the first day of January succeeding the next annual election, at which a successor must be elected for the remainder of the unexpired term, if any; if in the office of assessor or commissioner of schools, it is filled by appointment by the mayor for the unexpired term; if in any other elective office, it is filled by appointment by the mayor, and the person so appointed holds office until the first day of January succeeding the next city election, at which a successor must be elected for the full term. A vacancy in an appointive office for which a definite term of office is prescribed, arising otherwise than by expiration of term, is filled for the unexpired term by appointment by the board or officer authorized to make appointment to such office for the full term.

§ 31. **Resignations.**— Resignations of elective officers must be made and presented to the mayor, and of all other officers, to the appointing board or officer; and the board or officer to whom such resignation is presented must thereafter file the same in the office of the city clerk.

§ 32. **Elections.**— The city election is held in each odd-numbered year, in accordance with and in the manner now or hereafter provided in the election law, and there must be elected thereat successors to all elective officers whose terms of office expire on the first day of January following.

ARTICLE III.

Mayor.

Section 43. Executive power.
44. Acting mayor.
45. Secretary and subordinates.
46. Consultation with heads of departments.
47. Duties of mayor.
48. Execution of deeds and contracts.
49. Examination of books and accounts.
50. Additional powers and duties.

Section 43. **Executive power.**— The executive power of the city is vested in the mayor and in such executive officers and departments as are or may be created by law or by ordinance of the common council.

§ 44. **Acting mayor.**— In case the mayor is temporarily absent from the city, or is prevented from attending to the duties of office by sickness or disability, the president of the common council acts as and possesses all the rights of mayor during such period of absence, disability or sickness; but he is not permitted, unless such absence, disability or sickness has continued for a period of at least thirty days, to exercise any power of appointment or removal from office; or unless it has continued for a period of at least nine days, to sign, approve or disapprove any ordinance of the common council.

§ 45. **Secretary and subordinates.**— The mayor has power to appoint to hold office during his pleasure, a secretary and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 46. **Consultation with heads of departments.**— The mayor has the power to call together some or all of the heads of the city departments, and some or all of the members of boards and officers, for consultation and advice upon the affairs of the city, as often as he may deem advisable, and to require them to submit to him

such reports as to matters under their control and management as he may deem proper.

§ 47. **Duties of mayor.**— It is the duty of the mayor to see that the boards and officers of the city faithfully perform their duties; to maintain peace and good order within the city; to take care that the laws of the state and the ordinances of the common council are executed and enforced within the city; to communicate by written message to the common council at least once a year a statement of the finances and general condition of the affairs of the city, with such recommendations in relation thereto as he may deem proper, and to give such information in relation to the same as the common council may from time to time require, and to annex thereto or incorporate therein the reports of heads of departments, boards and officers, or parts thereof, or references thereto, with such recommendations as he may deem proper; to call a special meeting of the common council whenever in his judgment it is required by public necessity; and to receive and examine into all complaints made against any officer of the city for neglect of duty or malfeasance in office.

§ 48. **Execution of deeds and contracts.**— It is the duty of the mayor to execute on behalf of the city all deeds and contracts made by it and to cause to be affixed thereto the city seal, unless it is specifically provided otherwise herein.

§ 49. **Examination of books and accounts.**— The mayor has authority at all times to examine the books and papers of any department, board, court, officer or employee of the city, and as often as he may deem proper to appoint one or more competent persons, whose compensation must be fixed by the board of estimate and apportionment, to examine the books and accounts of any department, board, court, officer or employee, and to adjust the same, if necessary, and to examine the money, securities and property belonging to the city in possession or charge of any department, board, court, officer or employee; and he may administer oaths to witnesses and take affidavits in all cases relating to the affairs of the city.

§ 50. **Additional powers and duties.**— The mayor has such other powers and performs such other duties as may be prescribed in this act or by other laws of the state or by ordinance of the common council not inconsistent with law. In case of riot or insurrection the mayor may take command of the whole police force and he may for the occasion appoint and commission as many special policemen as he may deem necessary, who shall have all the powers of regular members of the police force.

ARTICLE IV.

Board of Estimate and Apportionment.

Section 61. Board of estimate and apportionment.
62. Annual estimate.
63. Annual appropriations.
64. Emergency fund.
65. Salaries.
66. Hearing upon appeal from audit.
67. Power to cancel or remit taxes.

Section 61. **Board of estimate and apportionment.**—The board of estimate and apportionment consists of the mayor, who is president thereof, comptroller, corporation counsel, president of the common council and the city engineer, except that when the number of subordinates or the salaries thereof in the department of any of the members of the board are to be fixed or determined, the treasurer temporarily takes the place of the member whose number of subordinates or the salary thereof is under consideration, for the purpose of fixing such salaries or number of subordinates. The members of the board must meet upon the call of the mayor or as directed by the board, and the city clerk acts as secretary thereof and must keep a journal of all proceedings of the board.

§ 62. **Annual estimate.**— Within forty-five days after the commencement of each fiscal year the board of estimate and apportionment must make an itemized statement in writing of the estimated

revenues and expenditures of the city for the fiscal year. The estimate of expenditures must contain an estimate of the several amounts of money which the board of estimate and apportionment deems necessary to provide for the following departments, bureaus, boards, courts and offices; mayor, board of estimate and apportionment; common council, comptroller, treasurer, department of assessment and taxation, board of contract and supply, department of public works, water works bureau, bureau of weights and measures, department of engineering, department of parks, department of public safety, police bureau, fire bureau, health bureau, bureau of buildings, department of charities, department of public instruction, department of law, police court, municipal court, market commission, board of midwife examiners, board of examiners of stationary engineers, municipal civil service commission, and other boards now or hereafter created by law, except Mount Hope commission; also the amounts of money required to be paid into sinking funds, the money required for interest on bonds, notes, and other indebtedness of the city, falling due during the fiscal year; the amount of any judgments recovered against the city payable during the fiscal year; and all other sums required by law or necessary to be raised to pay the expenses of conducting the business of the city for the fiscal year. The estimate of expenditures may also contain an estimate of funds required for a contingent appropriation to pay general expenses of the city, and for such other appropriations as the board of estimate and apportionment deems proper; and may contain a sum not exceeding seven hundred and fifty dollars for the purpose of paying the expenses of a proper observance of Memorial Day in the decoration of the graves of the dead soldiers, sailors and marines buried in the cemeteries of the city and its suburbs, to be expended under the direction of the various veteran organizations of the city. The estimate of expenditures for the department of public instruction must not be less than a sum equal to twenty-five dollars per capita, based on the total number of persons enrolled as pupils in the

public schools for the year ending on the preceding thirty-first day of December. After the annual estimate has been completed, the board of estimate and apportionment must submit the same in final form to the common council, with a statement in writing of such reasons for such estimate as it may deem proper.

§ 63. **Annual appropriations.**— The several sums estimated for expenditures contained in the annual estimate as adopted by the common council, become appropriated for the fiscal year in the amounts and for the several departments, bureaus, boards, courts, offices and appropriations as therein specified. When any moneys or revenues are received by the city or any department, board or officer thereof, from any source other than by municipal tax and which are not otherwise appropriated or directed by law to be applied, such moneys or revenue may be used and applied toward and in addition to the funds appropriated as aforesaid, in such manner as the board of estimate and apportionment may direct.

§ 64. **Emergency fund.**— The board of estimate and apportionment may create in any department, bureau, board, court or office for which moneys are appropriated in the annual estimate, from the moneys so appropriated, an emergency fund not exceeding the sum of five hundred dollars, which sum may be expended by the board or officer empowered to authorize expenditures, subject to such rules and regulations therefor as the board of estimate and apportionment may make; and claims must thereafter be presented for the moneys so expended, and audited in the same manner as other claims, and when so audited the moneys must be repaid into said fund; provided, however, that the balance therein at the end of the year must be applied as are other unexpended balances of the department, bureau, board, court or office.

§ 65. **Salaries.**— The board of estimate and apportionment has authority, except as otherwise provided herein or by law, to fix the salaries and compensation of all officers and employees of the city, and to determine that any officer is not to receive salary; but the annual salary of the police justice must be fixed at not less than three thousand five hundred dollars, and of each of the judges

of the municipal court at not less than three thousand dollars; and the salary of every officer and employee must be fixed before his election or appointment, and must be fixed for the entire term of officers and employees elected or appointed for a definite term. The salary or compensation of officers and employees not elected or appointed for a definite term may be changed during the month of January of any year.

§ 66. **Hearing upon appeal from audit.**— Upon the hearing of an appeal from an audit, the treasurer sits as a member of the board of estimate and apportionment in place of the comptroller. The board must make rules for procedure upon the hearing of appeals, and it has authority to take evidence and examine and swear witnesses and to issue subpoenas for the attendance of witnesses, and to audit the claim appealed from at such amount as it deems proper. In case the audit of the comptroller is reduced upon appeal and the full amount has been paid to the claimant under such audit, the city or any taxpayer has a right of action to recover the difference so paid.

§ 67. **Power to cancel or remit taxes.**— The board of estimate and apportionment has power to reduce any tax or assessment, or to cancel or remit the same, or any part thereof, or the whole, or any part of interest, penalties and fees thereon, upon such conditions as it deems proper, subject to the approval of the common council, in all cases in which a written petition signed by a person interested or by the treasurer or one of the assessors of the city of Rochester, stating why such tax or assessment should be cancelled, remitted or reduced, is filed with it; and the board may refer such petitions to a committee to be composed of officers of the city to be designated by said board, and it is the duty of the officers so designated to inquire into the matter contained in said petitions, and to report thereon to the board with their recommendations in relation thereto.

ARTICLE V.

Common Council.

Section 78. Members.
79. President.
80. Organization.
81. Clerk.
82. Meetings.
83. Designation of official papers.
84. Powers.
85. Legislative power.
86. Further legislative power.
87. Grant of franchises.
88. Acquisition of real estate.
89. Ordinance for purchase of real estate.
90. Ordinance for acquisition of real estate for school purposes.
91. Sale of real estate.
92. Lease of real estate.
93. Sale of personal property.
94. Power to establish playgrounds.
95. Ordinance authorizing encroachment upon street.
96. Issue of bonds and notes.
97. Appropriations.
98. Regulation of duties of officers.
99. Regulation of office hours and location of offices.
100. Grading of police and fire force.
101. Ordinances as to executive functions.
102. Penal ordinances.
103. Publication of penal ordinances.
104. Granting and revocation of licenses.
105. Adoption of annual estimate.
106. Tax budget.
107. Meeting for confirming annual tax rolls and levying taxes.

Section 108. Confirmation of annual tax rolls.
109. Levy of annual taxes.
110. Power as to construction of public buildings and works.
111. Power to require improvements.
112. Apportionment of expense of public improvements.
113. First ordinance for improvements.
114. Amendment of first ordinance for improvements.
115. Petitions for pavements.
116. Final ordinance for improvements.
117. Requirements for passage of final ordinance.
118. Ordinance for east side trunk sewer assessment.
119. Confirmation of local assessment rolls.
120. Correction of errors in taxes and assessments and re-assessment of same.
121. Alteration of names and grades, and discontinuance of streets.
122. Legislative acts.
123. Procedure after passage of ordinance.
124. Record of ordinances.
125. Ordinances and proceedings as evidence.
126. Injunctions to restrain violations of ordinances.
127. Power to incur expense restricted.

Section 78. **Members.**— The common council is composed of the aldermen.

§ 79. **President.**— The president of the common council presides at all meetings thereof and discharges such other duties as may be defined by ordinance of the common council and otherwise by law. The president may vote upon all resolutions and ordinances submitted to the common council for its action, in case of a tie vote, and has the power of commissioner of deeds.

§ 80. **Organization.**— The members of the common council are required to meet on the second day of January after their election, or if that be Sunday, then on the next day, and organize, and

must at that meeting or as soon thereafter as possible, elect a president pro tempore to serve during the term for which its members were elected, and who acts as president of the common council during the temporary absence or disability of that official. In case the president pro tempore becomes president of the common council by reason of a vacancy in that office, he is entitled to vote as a member of the common council.

§ 81. **Clerk.**— The common council must choose a clerk to hold office during the term for which its members were elected unless sooner removed by a vote of three-fourths of all the members of the common council. He is the city clerk, and it is his duty to attend the meetings of the common council, keep a journal of its proceedings, and discharge such other duties as may be prescribed by law or ordinance. He may appoint to hold office during his pleasure, a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment. It is the duty of the clerk to transmit to the head of each department, and the clerk of each board, copies of all ordinances in any manner affecting any of the matters of which any such department or board has jurisdiction. He has the custody of the city seal. The clerk and deputy clerk have the power of a commissioner of deeds.

§ 82. **Meetings.**— The common council must hold regular meetings at times to be determined by it. The president of the common council or a majority of its members may call a special meeting of that body by causing a written notice thereof, specifying the object of the meeting, to be served by the city clerk upon each member personally or by mail, directed to his place of residence or place of business, at least twenty-four hours before the time fixed for such meeting.

§ 83. **Designation of official papers.**— At the first meeting of the common council for the purpose of organization, it must designate two daily newspapers published in the city to be the official papers of the city. Each member is entitled to vote for one paper and the two papers having the highest number of votes shall be the official papers for two years and until others are designated. The

common council, before designating official papers, may receive rates of publication from publishers of newspapers, including the furnishing of a sufficient number of copies of the minutes of each meeting, and spread the same upon its minutes, and the same shall be binding in case papers are designated from the publishers of which rates have been received. The ordinances and proceedings of the common council must be published in the official papers after each meeting; and the proceedings of other departments, boards and officers if required to be published, legal notices, claims, advertisements and all other notices and matters published by the city, its departments, boards or officers, must be published at the rates specified, if any, in the official papers, or if required to be published in only one paper, in one of the official papers. In case an official paper refuse or fail to act as such, the common council may designate a successor. The minutes of each meeting of the common council must be printed in full within six days after its adjournment, and distributed by the clerk to each member of the common council, to the head of each department, and to each board of the city. At the end of the year the common council must cause the minutes to be printed, indexed and bound in adequate number.

§ 84. **Powers.**— The common council may determine the rules of its own proceedings and is the judge of the election and qualifications of its members. Its meetings are public and its records open to public inspection, and a majority of all its members constitute a quorum to do business. It may compel the attendance of absent members at any meeting properly called, and may punish or expel a member for disorderly conduct, for a violation of its rules, or for official misconduct, or declare his seat vacant by reason of absence continuing for the space of at least two months; but no member may be expelled and no vacancy be declared on account of absence, except by the vote of three-fourths of all the members of the common council, after the delinquent member has had an opportunity to be heard. All appointments and designations by the common council are determined upon a

vote taken by a roll call of its members and an entry upon the journal of the choice of each member or of the ayes and nays, if any.

§ 85. **Legislative power.**— The legislative power of the city is vested in the common council, and it has authority to enact ordinances not inconsistent with law for the government of the city and the management of its business; for the protection of its property and the indemnification of the city against loss or liability, for the preservation of good order, peace and health, for the safety and welfare of its inhabitants, and the protection, enjoyment and security of their property, and for such other purposes as the interests of the municipality and its citizens require. Its authority, except as otherwise provided in this act or by law, is legislative only.

§ 86. **Further legislative power.**— In addition to the powers conferred by the last section, the common council has power to adopt ordinances for the following purposes within the city:

1. To regulate and provide for the licensing of pawnbroking and pawnbrokers, auctions and auctioneers, employment agencies and those conducting them, peddling and peddlers, junk dealing and junk dealers, temporary sales and those engaged in them, huckstering and hucksters and the selling of hay, straw and farm produce; to regulate the inspection and sealing of weights and measures, the operation and speed of all vehicles upon the public streets, highways and places; to regulate the emission of smoke from, and to prohibit the emission of dense smoke from buildings, boilers, stationary engines, traction engines, railroad engines and locomotives, boats on the canal or river, and from all other sources; to regulate the construction, alteration and repair of buildings and structures, and to provide for the approval of plans therefor; to provide for the licensing of dogs, the seizure of unlicensed dogs, the care and protection of lost, strayed and homeless dogs, for securing and protecting the rights of the owners thereof, for the protection of the public against dogs, and the destruction of dan-

gerous or vicious dogs whether licensed or not; and to authorize the mayor to enter into a contract with an incorporated society for the prevention of cruelty to animals having jurisdiction in the city, for the capture and impoundage of all unlicensed dogs, and for the maintenance of a shelter for lost, strayed or homeless dogs; provided, however, that the compensation to be paid therefor must not exceed in any one year the amount collected by the city from the payment of license fees during the current year for which such contract is made.

2. To regulate and control the laying, maintenance, alteration and repair of subways, conduits, mains and pipes in and under the public streets, highways and places; to regulate and control the erection, construction and maintenance of poles, cables and wires in, upon, over and under the public streets, highways and places; to require cables and wires, except trolley wires and the necessary guy and supporting wires used in connection with such trolley wires, erected and proposed to be erected upon and over the public streets, highways and places to be placed under ground, not exceeding in one year the amount which may be placed in twenty miles of single duct, unless the ordinances for the excess over said twenty miles are unanimously approved by the board of estimate and apportionment; to regulate and control the opening and excavation of public streets, highways and places and the use of public streets, highways and places, or any part thereof, or the space above or underneath them for any purpose whatever; to regulate the operation and speed upon and over public streets, highways and places of locomotives, engines and cars upon steam, electric and street surface railroads.

3. To grant all rights or franchises to use the streets, highways and public places or any part thereof or the space above or underneath them, for any purpose whatever, upon such terms and conditions as it deems proper.

All franchises or rights to use the streets, highways and public places, acquired by any corporation and not exercised, in whole or in part, which are repealable, are hereby repealed and made sub-

ject to the provisions of subdivision three of this section. All franchises and charters of corporations hereafter granted shall be taken subject to subdivision three of this section.

§ 87. **Grant of franchises.**— An ordinance authorizing any franchise must be passed by a vote of three-fourths of all the members of the common council, and must provide for a disposition of the same at public auction to the highest bidder, under proper regulations for the protection of the city and after public notice to be published once each week for three weeks in the official papers; which sale must be approved by the board of estimate and apportionment before it takes effect. The common council may, subject to approval by the mayor and the board of estimate and apportionment, grant to the owner or lessees of an existing franchise under which operations are being actually carried on, additional franchise rights or extensions in the street or streets in which the said franchise exists, without advertisement and sale. No franchise shall be granted or be operative for a period longer than twenty-five years.

§ 88. **Acquisition of real estate.**— All purchases or other acquisition by the city of real estate or any right or easement therein, must be authorized by ordinance of the common council. This section does not apply to purchases of real estate or rights or easements therein for school purposes or in actions for foreclosure of tax liens.

§ 89. **Ordinance for purchase of real estate.**— Whenever the common council determines to authorize the purchase of any real estate or rights or easements therein, it must pass an ordinance containing a description of the real estate, rights or easements to be acquired, and declaring its intention to acquire the same and that it deems the same necessary for municipal purposes, and directing the commissioner of public works to purchase the same at a price approved by the board of estimate and apportionment, and directing the corporation counsel in case the commissioner of public works is unable to purchase such real estate, rights or easements at a price approved by the board of estimate and appor-

tionment, to institute condemnation proceedings for the acquirement of the same. In case a local assessment is to be levied for the whole or any part of the expense of the acquisition of such real estate, rights or easements, the common council must proceed thereon as in the case of other public improvements or work involving local assessments, and may in the ordinances for public improvements or work involving local assessments, direct the acquisition as herein provided of real estate, rights or easements necessary to be acquired for the purpose of making such public improvement or work.

§ 90. **Ordinance for acquisition of real estate for school purposes.** — Whenever the board of education reports to the common council that it is unable to purchase real estate, rights or easements deemed necessary by it for school purposes, the common council may pass an ordinance containing a description of the real estate, rights or easements to be acquired, and declaring its intention to acquire the same, and that it deems the same necessary for municipal purposes, and directing the corporation counsel to institute condemnation proceedings for the acquirement of the same.

§ 91. **Sale of real estate.**— All sales of real estate or of any right or easement therein, belonging to the city, except sections, lots and burial places in Mount Hope cemetery, must be made pursuant to authority granted by ordinance of the common council passed by three-fourths of all the members, and must be sold at public auction to the highest bidder, under proper regulation as to the giving of security and after public notice to be published once each week for three weeks in the official papers; and the price thereof must be approved by the board of estimate and apportionment before the sale takes effect.

§ 92. **Lease of real estate.**— Except as otherwise provided in this act, all leases of real estate or of any right or easement therein belonging to the city, must be made pursuant to authority granted by ordinance of the common council, and upon such terms

and conditions, if any, as are specified in such ordinance; and the amount of rental thereof must be approved by the board of estimate and apportionment before the lease takes effect.

§ 93. **Sale of personal property.**— All sales of personal property belonging to the city must be made pursuant to authority granted by ordinance of the common council, and the price thereof must be approved by the board of estimate and apportionment before the sale takes effect.

§ 94. **Power to establish playgrounds.**— The common council has power by ordinance to locate and establish playgrounds, and to determine that a small park or square, or a part thereof, may be used for other than park purposes, and to thereupon place it or such part thereof under the control of the proper department, board or officer.

§ 95. **Ordinance authorizing encroachment upon street.**— An ordinance authorizing the commissioner of public works to grant a license or permission for an encroachment or projection over or on a public street, highway or place, or for the construction of areaways and cellars beneath sidewalks of the public streets, highways and places, must not be adopted except after a public hearing of which notice must be published in the official papers for at least three days; and the ordinance must provide for the filing of a bond indemnifying the city against all loss, liability or damage therefrom; upon which bond any person injured by such construction may sue; and all such licenses may be revoked by the common council at any time. The common council may at any time revoke any such license heretofore granted by it or by any board or officer of the city, or may require the filing of a bond of indemnity as aforesaid by the person maintaining such a construction heretofore made.

§ 96. **Issue of bonds and notes.**

1. The common council has power from time to time to borrow money for city purposes and to cause to be issued therefor, in amounts designated by it, notes of the city signed as directed by it and running for a period not exceeding eight months, or bonds

of the city signed by the mayor and treasurer, sealed with the corporate seal and countersigned by the comptroller, and at the option of the common council, by a transfer agent designated by it, payable and transferable at such places as the common council may designate, running for a period or different periods determined by the common council not exceeding thirty years, bearing interest at a rate fixed by the common council, not exceeding four per centum per annum, and to be sold under the direction of the comptroller, after competition, upon sealed proposals, at not less than par. The common council has power to create a sinking fund for the redemption of bonds herein authorized, and to provide that there must be deposited therein annually fixed sums or percentages of the appropriations or revenues of the department, board, bureau or office for the benefit of which the bonds are issued; or it may provide that a certain sum must be raised annually by taxes and added to such sinking fund; or it may provide other means of paying or redeeming the bonds at maturity; or it may issue the same without creating a sinking fund, or making other provisions for the redemption thereof. The provisions of any general law or special law do not apply to the issuance and sale of the notes and bonds herein authorized.

2. The common council must forthwith, upon demand of the board of education, cause to be issued bonds of the city to an amount which, together with the bonds heretofore issued pursuant to the provisions of chapter five hundred and forty-nine of the laws of nineteen hundred and six, do not exceed three hundred thousand dollars, to be known as school bonds, series of nineteen hundred and six to nineteen hundred and nine, to draw interest at the rate of four per centum per annum, and to be issued in denominations of five thousand dollars each, and to be made payable at such places, and to be signed and countersigned in such manner as the common council may direct, to be sold by the comptroller after competition upon sealed proposals at not less than par, and to be issued and sold during the years nineteen hundred and eight and nineteen hundred and nine in allotments of seventy-five thousand

dollars for each of such years, respectively, at such times and in such amounts as may be desired by the board of education as certified by said board to the comptroller of the city; provided, however, that if in either or any of the years nineteen hundred and six, nineteen hundred and seven and nineteen hundred and eight there is not issued and sold the full amount of seventy-five thousand dollars of bonds, then the balance of said seventy-five thousand dollars of bonds authorized to be issued for such years and not issued, may be issued and sold in any subsequent year up to and including the year nineteen hundred and nine, in addition to the seventy-five thousand dollars of bonds authorized for such subsequent year, at such times and in such amounts as may be desired by said board of education and as certified by it to the comptroller. The bonds issued pursuant to the provisions of chapter five hundred and forty-nine of the laws of nineteen hundred and six, or pursuant to the provisions of subdivision two of this section, must be payable in blocks or allotments of twenty-five thousand dollars, as follows: the first twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and eleven; the second twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and twelve; the third twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and thirteen; the fourth twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and fourteen; the fifth twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and fifteen; the sixth twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and sixteen; the seventh twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and seventeen; the eighth twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and eighteen; the ninth twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and nineteen; the tenth twenty-five thousand dollars thereof issued to be made payable June first,

nineteen hundred and twenty; the eleventh twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and twenty-one; the twelfth twenty-five thousand dollars thereof issued to be made payable June first, nineteen hundred and twenty-two. The proceeds of the sale of the school bonds authorized by subdivision two of this section must be placed to the credit of the department of public instruction, for the purpose of constructing and enlarging school buildings and providing sites for the same.

§ 97. **Appropriations.**—No appropriation of money may be made for any purpose except by ordinance specifying each item, the amount thereof, and the department, board, bureau, court, office or specific appropriation for which the appropriation is made.

§ 98. **Regulation of duties of officers.**— The common council may, by ordinance passed by a vote of three-fourths of all its members, not inconsistent with this act or laws of the state, regulate the powers and duties of any department, board, bureau or officer; and it has power to investigate all departments, boards, bureaus, courts and officers, and has access to all records and papers kept by or in the custody of any department, board, bureau, court or officer; and has power to compel the attendance of witnesses and the production of books, papers or other evidence at any meeting of the common council or of any committee thereof, and for that purpose may issue subpoenas signed by the president.

§ 99. **Regulation of office hours and location of offices.**— The common council may from time to time by ordinance regulate the office hours of and determine the location of the offices of any department, board, bureau, court or office.

§ 100. **Grading of police and fire force.**— The common council has power at all times by ordinance to determine the number of members of the police force and of the fire force, and the classes or grades into which each shall be divided; but the number of members of the police force or fire force must not be increased without the approval of the board of estimate and apportionment by a resolution adopted by at least four affirmative votes.

§ 101. **Ordinances as to executive functions.**— Whenever an executive or administrative function is by law or ordinance of the common council required to be performed, the same must be performed by the proper executive or administrative department, board, bureau or officer designated in the law or ordinance, and in case no such designation is thus made the mayor may make the same; but no ordinance must be passed interfering with the exercise of the executive functions of the departments, boards, bureaus and officers as provided in this act or otherwise by law.

§ 102. **Penal ordinances.**— It may be provided in a general ordinance or ordinances or any ordinance or ordinances adopted by the common council, that a violation of an ordinance of the common council is punishable by a fine not exceeding one hundred fifty dollars or by imprisonment not exceeding one hundred fifty days or by both such fine and imprisonment, or by penalty not exceeding five hundred dollars to be recovered by the city of Rochester in a civil action, or by a maximum and minimum fine or a maximum and minimum term of imprisonment or both, or by a maximum and minimum amount of penalty, or by a definite amount of penalty. The amount of fine and term of imprisonment within the limits prescribed by the common council and the imposition of one or both must be determined by the court. The amount of penalty to be recovered in a civil action, of which the municipal court of the city of Rochester, the county court of Monroe county and the supreme court have jurisdiction, if not fixed at a definite amount, must be determined by the court or jury within the limits fixed by the common council.

§ 103. **Publication of penal ordinances.**— Every ordinance of the common council imposing a penalty or fine, or imprisonment, and every amendment thereto, must before the same takes effect be published at least three times in each week for two successive weeks in the official newspapers of the city; provided that in case of insurrection, riot, pestilence, conflagration or other public necessity requiring immediate operation of such ordinance, it shall take effect as soon as proclamation thereof has been made by the mayor,

and the same has been posted in five public places in each ward of the city.

§ 104. **Granting and revocation of licenses.**— Any board, bureau or officer authorized by ordinance of the common council to grant any license, has discretionary power to grant or refuse the same, and the common council may provide that any license, right or permission granted under or by virtue of an ordinance thereof may be revoked by the board, bureau or officer issuing the same, either summarily in his or its discretion, or after a hearing, upon a violation of the laws of the state or ordinances of the common council by the person or corporation to whom the same was granted or who is acting under or using the same, or his or its agents, servants or employees.

§ 105. **Adoption of annual estimate.**— The common council must, as soon as possible, after receiving the annual estimate, convene and consider the same and give a public hearing to all persons wishing to be heard in reference thereto. The common council must not increase any item contained therein, but has power to diminish or reject any item contained therein, except those relating to indebtedness, judgments or estimated revenues; provided, however, that the items for the department of public instruction must not be reduced to less than a sum equal to twenty-five dollars per capita, based on the total number of persons enrolled as pupils in the public schools for the year ending on the preceding thirty-first day of December. After the public hearing and within thirty days after the annual estimate has been submitted to it, the common council must adopt the same as submitted or as amended by it, and enter it upon its minutes.

§ 106. **Tax budget.**— The amount of estimated expenditures contained in the annual estimate adopted by the common council, less the amount of estimated revenues applicable to the payment thereof, contained in such estimate, constitutes the tax budget.

§ 107. **Meeting for confirming annual tax rolls and levying taxes.**— The common council must meet on the first day of April in each year, or if that be Sunday then on the next day following,

for the purpose of confirming the annual tax rolls and levying the annual taxes. They must hear the allegations and complaints of all persons interested who appear; of which meeting and the purpose thereof and of such hearing the city clerk must give notice by publication for at least three days in the official papers.

§ 108. **Confirmation of annual tax rolls.**— The common council, at such meeting or the time or times to which it may be adjourned, not later than five days therefrom, must, after making such amendments and corrections to the annual tax rolls reported to it, and the taxes, assessments, charges, expenses and other items therein set forth as they deem proper, confirm such annual tax rolls.

§ 109. **Levy of annual taxes.**— The common council, at such meeting or the time or times to which it may be adjourned, not later than five days therefrom, must levy taxes to the amount set forth in the tax budget adopted by it, on all the real and personal property in the city, according to the statement and valuation of the same set forth in the annual tax rolls for the current year; and in addition must levy and assess for the benefit of the water works fund a water frontage tax on the lots liable thereto as set forth in the annual tax rolls for the current year as follows: three cents on each lineal foot front of each lot on which no water rates have accrued or been paid to the city during the preceding year, provided such lots are situate on a public street, highway or place in the city in which the city's water mains are laid and in use, and also three cents on each lineal foot front in excess of two hundred feet of each city lot exceeding two hundred feet frontage on which the water rates accrued or due the city during the preceding year do not aggregate an amount equal to at least three cents on each lineal foot of the whole frontage.

§ 110. **Power as to construction of public buildings and works.**— The common council has power by ordinance to authorize the construction and erection for city purposes of buildings, works and reservoirs within or without the limits of the city.

§ 111. **Power to require improvements.**— The common council has power to require the opening, laying out, paving, re-paving, grading, re-grading, repairing, sprinkling, cleaning, sodding, embellishment, alteration, widening and discontinuance of public streets, highways and places, and the cutting and sowing of grass and planting and care of trees therein; the construction, alteration, repair and cleaning of sidewalks on the public streets, highways and places; the street numbering and re-numbering of houses, buildings and structures; the construction, alteration, repair and cleaning of public sewers and drains, and of laterals connected therewith, and the construction, alteration, repair, cleaning and extension of public sewers and drains beyond the limits of the city; the construction within or without the city of sewage disposal plants, and the alteration, repair and cleaning of the same; the construction, alteration and repair of bridges and arches over any water or other places; the removal of dirt, rubbish and deposits from and the deepening of the Genesee river, and the construction, alteration and repair of walls along the banks of said river, and the construction, alteration and repair of the banks thereof; and the construction of all other public improvements and work deemed necessary, and the guarantee to keep any improvement or work in good order and repair for such time as it determines.

§ 112. **Apportionment of expense of public improvements.**— The common council may direct that the whole of the expense of a public improvement or work be assessed upon the property deemed benefited or, subject to the approval of the board of estimate and apportionment, that the whole or part thereof be charged to the city at large and the remainder, if any, assessed upon the property deemed benefited.

§ 113. **First ordinance for improvements.**— In the case of a public improvement or work involving a local assessment, the common council must cause an estimate of the expense of the proposed improvement or work to be made, and of the maximum cost per front foot to the property to be assessed therefor, and may

thereafter pass a first ordinance declaring its intention to require such improvement or work to be made or done and describing the portion of the city which it deems proper to be assessed for the expense thereof. Thereafter a notice must be published in the official papers for four days, specifying the improvement or work, the estimated expense thereof, the amount thereof to be paid by the city at large, if any, and the portion or part of the city to be assessed, and the time of hearing allegations thereon by the common council.

§ 114. **Amendment of first ordinance for improvements.**— Whenever after publication of notice for hearing of allegations, the first ordinance for a public improvement or work involving a local assessment, is amended by increasing the estimated expense thereof, or the territory to be assessed, the final ordinance must not be passed until a new notice is published in the form and manner required after the passage of the first ordinance.

§ 115. **Petitions for pavements.**— Any five or more property owners liable to be assessed for the cost of paving or repaving a public street, highway or place, may, before the passage of the final ordinance, present to the common council a petition specifying the material desired to be used in constructing such pavement, and may specify therein the particular kind, make, style or brand of material desired. The common council must in the final ordinance or by separate resolution or resolutions passed not later than the final ordinance, specify each material and each particular kind, make, style or brand of material for which a petition has been presented, if any, and such other materials or particular kinds, makes, styles or brands of materials as it deems desirable, as those proposed to be used in constructing the pavement.

§ 116. **Final ordinance for improvements.**— At the time appointed in the notice for the hearing of allegations, or the time to which the meeting at which allegations were advertised to be heard is adjourned, the common council must hear the allegations of persons interested who appear, and may pass a final ordinance

for such public improvement or work or take such other action thereon as is deemed proper. A final ordinance for a public improvement or work involving a local assessment must specify the number of equal annual installments in which the assessment is payable, within the following limits: when the estimated maximum cost per front foot to the property to be assessed therefor is not more than one dollar, the assessment must be paid in not more than three installments; when it is more than one dollar and not more than three dollars, in not more than five installments; when it is more than three dollars and not more than five dollars, in not more than seven installments; when it is more than five dollars, in not more than ten installments.

§ 117. **Requirements for passage of final ordinance.**— A final ordinance for a public improvement or work involving a local assessment, must be passed by a vote of two-thirds of all the members of the common council, unless a majority of the owners of property to be assessed for the expense thereof, as appears by the records of the assessors, present to the common council a petition for such work or improvement.

§ 118. **Ordinance for east side trunk sewer assessment.**— In the year nineteen hundred and eight, and in each fifth year thereafter until the bonds issued for the construction of the east side trunk sewer are paid and redeemed, the common council must determine what amount, if any, of east side trunk sewer bonds, in addition to those falling due during the next five years, it will cause to be redeemed, and the amount of money necessary to be raised therefor and for the bonds falling due, and the amount necessary to be raised for interest during the next five years on east side trunk sewer bonds, and also the amount it deems necessary to be raised by assessment upon the property benefited to pay the cost and expense of constructing or reconstructing the east side trunk sewer, additions thereto and overflows from the same, in settling judgments and claims caused by the sewer, additions and overflows, the construction or reconstruction of a disposal plant for said sewer and the purchase of lands, rights

and easements necessary for the construction or maintenance of the sewer, additions, overflows and disposal plants, and for such other purposes connected with the sewer, additions, overflows and disposal plant as it deems desirable; and it must direct the total amount thereof, together with any interest paid on account thereof by the city, and interest on the total amount to the time the first installment becomes due, and all expenses incident to the making of the assessment to be assessed on the portion or part of the city which it deems benefited thereby. The common council must proceed thereon as in the case of other public improvements or work involving a local assessment, and the assessment therefor is payable in five equal annual installments, the time when each becomes due to be determined as in the case of other local assessments, and the same rate of interest to be paid thereon as on other local assessments, and to be levied and collected as other local assessments; and the same proceedings for its enforcement and collection may be taken by the city as is provided herein for the enforcement of other local assessments.

§ 119. **Confirmation of local assessment rolls.**— When a local assessment roll is delivered to the city clerk he must report it to the common council at its next meeting. The common council must hear the allegations and complaints of all persons interested who appear, and may correct, confirm, set aside or refer the assessment roll to its committee on assessments or other committee, or order a new assessment. If the same be referred to a committee, the committee may proceed to hear allegations and complaints upon five days' notice by publication in the official papers, or may without such notice or hearing examine and report to the common council, who may thereupon correct, confirm or set aside said report or order a new assessment. Any assessment roll made at any time heretofore as well as hereafter, may after its confirmation be reconsidered by the common council at any time, and the same proceedings may be had thereon as herein provided before the confirmation thereof. After the roll is confirmed it must be delivered by the city clerk to the city treasurer.

§ 120. **Correction of errors in taxes and assessments and re-assessment of the same.**— When in the judgment of the common council there is any irregularity, omission, error, or lack of jurisdiction in any of the proceedings relating to any tax or local assessment heretofore or hereafter levied and assessed, or in the making, levying or assessment of the same, the common council has power, after causing notice to the person or corporation to be taxed or assessed to be served personally or by mail, directed to his last known place of residence, or its last known place of business, and an opportunity to be heard at a time specified in such notice, to correct any such tax or local assessment, or any part thereof, and to re-assess the same in such amount as it deems proper, including therein interest at such rate on such amount as it deems proper, against the proper person or corporation or property it deems liable to such tax or benefited by such improvement, or both; and such correction or re-assessment has the same effect as though the tax or assessment had originally been properly levied and assessed. The common council has the power when it deems it for the best interests of the city, to set aside the whole of a local assessment, and thereupon to cause a re-assessment to be made, and may pass an ordinance designating the public improvement or work so made, the whole expense thereof, including any and all interest thereon to the date the re-assessment or first installment thereof becomes due, including all that may be imposed as provided in this act in the case of local assessments, and the part or portion of the city deemed to be benefited thereby; and it may direct the city assessors to assess the lots and parcels of land in such territory described, for such expense, according to the benefit received, and proceed in all respects as in cases of local assessments; and such re-assessment has the same valid and binding force as if it had originally been properly made. An ordinance setting aside, the whole of a local assessment and directing a re-assessment thereof must provide that any moneys paid on the assessment set aside, with interest at a rate determined by the common council not exceeding the rate received by the city on such money, must

be credited on the amount of the new assessment against the property on which the assessment was paid, and that in case the amount so paid exceeds the amount re-assessed on the same property, such surplus, including interest as aforesaid, must be paid to the person who may have paid the same.

§ 121. **Alteration of names and grades and discontinuance of streets.**— An ordinance of the common council altering the name of a public street or highway, or changing the legally established grade of a public street or highway, or discontinuing a public street or highway, must be passed by a vote of three-fourths of all the members thereof; and in case of the discontinuance of a street, before any action is taken thereon, a notice must be published for ten days in the official papers of the intention to discontinue such public street or highway, and stating that all persons interested may be heard in reference thereto at a time specified in such notice. Claims for damages caused by the change of grade or the discontinuance of a public street or highway, must be presented to the commissioner of public works within three months after the passage of the final ordinance therefor. In case such notice is not served no damages therefor are recoverable from the city and no action or proceeding may be maintained against the city to recover the same. On the filing of said claim the commissioner of public works may agree upon the amount of damages to be awarded, subject to approval by the board of estimate and apportionment. In case of a failure to agree damages must be determined in condemnation proceedings as herein provided.

§ 122. **Legislative acts.**— All legislative acts of the common council must be by ordinance, and on the passage of every ordinance the ayes and nays of the members voting thereon must be entered in full upon the journal. The passage of an ordinance requires the affirmative vote of at least a majority of all the members of the common council. No ordinance, except a final ordinance involving a local assessment, may be passed by the common council on the same day on which it is introduced, if there is objection to its consideration. An ordinance amended

after introduction does not become a new ordinance unless the president, or the common council upon appeal from his ruling, rules that the amendment is so substantial as to constitute a new ordinance.

§ 123. **Procedure after passage of ordinance.**— Every ordinance of the common council must immediately after its passage be separately engrossed and signed by the president and attested by the clerk. The clerk must thereupon present the same to the mayor. If the mayor approve it he must sign it and return it to the clerk, and the ordinance thereupon takes effect. If he disapprove it, he must return it to the clerk with his objections stated in writing, and the clerk must present the same with such objections to the common council at its next regular meeting. The common council may, within thirty days thereafter, reconsider the same; if, after such reconsideration, three-fourths of all the members of the common council vote to pass the ordinance the same takes effect notwithstanding the objections of the mayor, unless a greater number of members were necessary according to the provisions of this act for the original passage of the ordinance, in which case unless as many members as were requisite for the original passage of the ordinance vote to pass the ordinance it does not take effect. If any ordinance is not returned by the mayor to the clerk within ten days after it has been presented to him, or if such ordinance is returned within such period without the mayor's approval or disapproval, the same takes effect in like manner as if the mayor had approved and signed it. If any ordinance presented to the mayor contains several items of appropriation of money or embraces more than one distinct subject, the mayor may approve the provisions relating to one or more items or one or more subjects and disapprove the others. In such case those items or subjects which he approves take effect and he must append to the ordinance at the time of signing it a statement of the items or subjects which he disapproves and said items or subjects so disapproved do not take effect. He must return to the clerk a copy of such statement and the items or subjects disapproved may be

separately reconsidered by the common council and become effective if again passed by it as above provided. All the provisions of this section in relation to ordinances disapproved by the mayor apply in cases in which he disapproves any item or subject contained in an ordinance appropriating money or embracing more than one distinct subject.

§ 124. **Record of ordinances.**— Every ordinance must, upon its taking effect as herein provided, be recorded in a book kept for that purpose by the clerk. Such record includes the signature of the president, attestation of the clerk and the mayor's written approval, or in case of his disapproval a memorandum of its passage over his veto; or in case the ordinance took effect because he failed to approve or disapprove and return within ten days, then a memorandum to that effect. The original engrossed ordinances for each year must be bound together and kept in the custody of the clerk.

§ 125. **Ordinances and proceedings as evidence.**— The printed minutes of the common council and the printed ordinances of the common council heretofore or hereafter published, certified by the city clerk under the city seal or printed or purporting to be printed under authority of the common council, or purporting to be the printed minutes or printed ordinances of the common council, are presumptive evidence of the ordinances, resolutions, by-laws and rules contained therein, of the reports, communications, petitions and documents presented to the common council contained therein, of the acts and recitals of occurrences contained therein, of all proceedings of the common council and of all other matters contained therein, and are presumptive evidence of the due adoption, signing by the mayor and publication of all ordinances contained therein. A certificate signed by the city clerk under the city seal, certifying to the contents, adoption, signing and publication of an ordinance or of any of said facts, is presumptive evidence of the facts contained in such certificate.

§ 126. **Injunctions to restrain violations of ordinances.**— The

city of Rochester may maintain actions in courts of record of competent jurisdiction to restrain violations of penal and other ordinances of the common council.

§ 127. **Power to incur expense restricted.**— No member or committee of the common council has power to employ any person, incur any expense, or purchase any material for or on behalf of the city or any of its officers, boards or departments, except as otherwise expressly provided in this act.

ARTICLE VI.

DEPARTMENT OF FINANCE.

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Section 138. **Fiscal year.**— The fiscal year of the city commences on the first day of January.

§ 139. **Comptroller.**— The comptroller is the chief fiscal officer of the city and has power to appoint to hold office during his pleasure a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 140. **Duties of comptroller.**— It is the duty of the comptroller to superintend the fiscal concerns of the city and to manage the same pursuant to law and the ordinances of the common council; to keep a separate account with every department, board, bureau, court, office, appropriation and fund for which moneys are appropriated in the annual estimate or raised by assessment; to require all checks and drafts for the payment of claims against the city to state particularly against which of such departments, boards, bureaus, courts, offices, appropriations or funds the checks

or drafts are drawn, and not to permit any of the appropriations for the same including the moneys lawfully added thereto to be overdrawn, or claims chargeable to one fund to be charged to another, and to render quarterly, and at other times if requested, a detailed report to the mayor and common council of the funds and financial condition of the city, and to perform such other duties as may from time to time be prescribed by law or by ordinance of the common council.

§ 141. **Annual financial statement.**— The comptroller must, as soon as possible after the close of each fiscal year, prepare and cause to be published in book or pamphlet form, a full and accurate statement in detail, verified by him, showing the receipts and revenues of the city from all sources and the accounts due to the city and uncollected at the close of the fiscal year, the disbursements from all city funds and expenditures in all branches of the city government during the fiscal year, the indebtedness of the city at the close of the fiscal year, the provisions made for the payment thereof, together with the purposes for which it was incurred; also showing the several funds belonging to the city, the amount drawn on each fund, and the debts and obligations of the city, the character thereof, the time the same are payable and the rate of interest on each.

§ 142. **Claims against city must be audited.**— Except as otherwise provided in this act in relation to claims for damages and injuries, all claims against the city must be presented to and audited by the comptroller before payment.

§ 143. **Form and audit of claims.**— Claims must be filed with the comptroller in the name of the person, firm or corporation presenting the same, in the form prescribed by the comptroller, verified by or on behalf of the claimant and approved by the head of the department, president of the board, judge of the court, or officer whose action gave rise or origin to the claim; except that no written claim is required for principal and interest on city bonds and notes, and no verification is required on claims for taxes, judgments, compromised claims and fixed salaries or com-

pensation of regular officers, employees and laborers of the city. The comptroller must, on Monday of every week, cause claims presented to him or the substance thereof to be printed in the official papers, and he must take no action thereon until at least five days after such publication. The provisions of this section relating to the publication of claims and length of time elapsing thereafter, do not apply to principal and interest of city bonds and notes, to taxes, judgments, compromised claims and fixed salaries or compensation of regular officers, employees and laborers of the city, or to claims under contracts made with the city for more than two hundred and fifty dollars; but such claims must thereafter be published with the amount at which each was audited, in the manner claims presented are published. The power of the comptroller to audit claims for principal and interest of city bonds and notes, claims for taxes, judgments, compromised claims and fixed salaries or compensation of regular officers, employees and laborers of the city, claims under contracts made with the city for more than two hundred and fifty dollars, claims for judgments, and other claims in which the amount is fixed by or pursuant to law, does not include the right to reduce the amount legally due thereon. The comptroller may pay the claim at any time after audit unless the claim is audited at less than the amount claimed or objections thereto have been filed by any official or taxpayer of the city, in which case, the comptroller must, as soon as possible after taking action thereon, serve a statement of such action by mail or otherwise on the claimant and the person filing objections and must not pay such claim until the time to appeal has expired, and if an appeal is taken, until after the decision of the board of estimate and apportionment thereon. The claimant may, within fifteen days after service upon him of the statement of the action of the comptroller, or any officer or taxpayer of the city may within fifteen days after the action of the comptroller, appeal to the board of estimate and apportionment from an audit made by that official. All claims with the certificate of audit of the comptroller or the board of estimate and apportionment endorsed

thereon must be filed in the office of the treasurer and remain a record therein.

§ 144. **Claim for taxes.**— No tax upon municipal property must be paid until the claim therefor is presented to the comptroller by the collector or other officer charged with the collection thereof, and the city may pay any tax with an addition thereto of one per centum for collector's or other fees, within thirty days after the claim therefor is presented to the comptroller.

§ 145. **Report of cost of public improvements and work.**— The entire expense to be assessed upon the property benefited of any public improvement or work, must be ascertained by the comptroller, including any damages or awards for the taking of real estate, rights or easements, and all expenses incident to the making of the improvement or work or the assessment therefor, together with any interest paid or accrued at the time of the computation on bonds, notes or other obligations issued by the city to pay the expenses of such improvement or work, and interest on such total amount must be reckoned to the time the assessment or first installment thereof becomes due; and the aggregate amount thereof must thereupon be reported to the assessors by the comptroller.

§ 146. **Report as to certain specific improvements.**— The entire expense to be assessed upon the property benefited, computed as aforesaid, except that interest on the total amount is to be computed to the first day of June following the report, of numbering houses, sprinkling streets, cleaning streets, care, embellishment and maintenance of streets and cleaning of sidewalks, done pursuant to ordinances of the common council, must be reported to the assessors by the comptroller on or before the first day of March in each year.

§ 147. **Management of Mount Hope funds.**— The comptroller under the direction of the Mount Hope commission has the investment and management of the Mount Hope repair fund, the Mount Hope perpetual contract fund, and the Mount Hope special section fund, and may with the approval of said commission invest

the funds thereof in bonds and notes of the city and securities in which the trustees of saving banks are authorized by law to invest deposits, except bonds and mortgages on real estate and railroad bonds.

§ 148. **Management of police and fire pension funds.**— The comptroller, under the direction of the board of estimate and apportionment, has the investment and management of the police and fire pension funds, and may, with the approval of the board of estimate and apportionment, invest the moneys thereof in bonds and notes of the city and other securities. He must report to the common council in detail the condition of each of the funds at the close of each fiscal year.

§ 149. **Management of teachers' retirement fund.**— The comptroller, under the direction of the board of trustees of the teachers' retirement fund, has the investment and management thereof, and may, with the approval of the board of trustees, invest the moneys thereof in bonds and notes of the city and other securities.

§ 150. **Management of sinking funds.**— The comptroller, under the direction of the board of estimate and apportionment, has the investment and management of sinking funds, and may, with the approval of the board of estimate and apportionment, invest the funds thereof in bonds and notes of the city and other securities.

§ 151. **General sinking fund.**— The general sinking fund is continued with the moneys now contained therein. There must be placed to the credit of said fund each year any unexpended balances of the appropriations made for the support of the city government for the previous year, and any surplus revenues received and not expended by the city the previous year, except revenues from Mount Hope cemetery, unless such unexpended balances or revenues are directed by this charter or by law to be otherwise applied; also any percentage of gross receipts paid to the city by any street surface railway company, provided such gross receipts are not deducted from taxes paid or owing by said railway company;

also any surplus remaining in a sinking fund after the redemption of the bonds to pay which the sinking fund is created, except sinking funds created for the redemption of water works bonds. The unexpended balances do not include the moneys of the fiscal year lawfully made liable, obligated or contracted to be paid, and not paid at the end of the year; but the same must be retained to apply on such liability, obligation or contract. The moneys in the general sinking fund may be used to retire bonds of the city now or hereafter issued for which no sinking fund or an insufficient sinking fund is provided.

§ 152. **Water sinking fund.**— The water sinking fund is continued with the moneys contained therein. There must be added thereto each year the sum of thirty thousand dollars from water rates received by the city; also all surplus of water rates received by the city remaining after the payment of operating expenses, salaries, extensions, betterments, repairs and maintenance of the water works system, and of interest upon bonds issued for the construction, extension, betterment, repair and maintenance of the water works system; also all moneys remaining in special sinking funds created for the redemption of water works bonds remaining therein after such bonds are paid. The moneys in the water sinking fund may be used for the purpose of redeeming bonds of the city now or hereafter issued for the construction, extension, betterment, repair and maintenance of the water works system and for the redemption of which there is no sinking fund or an insufficient sinking fund provided.

§ 153. **Water distributing sinking fund.**— The water distributing sinking fund is continued with the moneys contained therein. The sum of fifteen thousand dollars must be raised in the annual taxes and added thereto each year until said fund contains a sum sufficient to pay and redeem the water distributing bonds.

§ 154. **Hemlock lake watershed sinking fund.**— The Hemlock lake watershed sinking fund is continued with the moneys contained therein. The sum of eighteen thousand five hundred dol-

lars must be raised in the annual taxes and added thereto each year until said fund contains a sum sufficient to pay and redeem the Hemlock lake watershed bonds.

§ 155. **Park sinking fund.**— The park sinking fund is continued with the moneys contained therein. The sum of three thousand six hundred dollars must be raised in the annual taxes and added thereto each year until said fund contains a sum sufficient to pay and redeem the park bonds or any re-issue thereof.

§ 156. **High school sinking fund.**— The high school sinking fund is continued with the moneys contained therein. There must be added thereto each year until the high school bonds are paid and redeemed the balance remaining unexpended at the end of the fiscal year of the moneys appropriated for the department of public instruction and of school moneys appropriated to or provided for the city of Rochester; and if the sum so unexpended does not amount to thirty thousand dollars in any year, then the treasurer of the city of Rochester must transfer to said fund from the moneys appropriated the succeeding fiscal year for the department of public instruction, a sum which, with such unexpended balance, will equal the sum of thirty thousand dollars.

§ 157. **School sinking fund.**— For the purpose of providing a school sinking fund to pay and redeem school bonds now or hereafter issued, authorized by chapter five hundred and forty-nine of the laws of nineteen hundred and six, the treasurer must, in the year nineteen hundred and eleven and in each year thereafter until said fund contains a sum sufficient to pay and redeem such bonds, take from the moneys appropriated for the department of public instruction, the sum of twenty-five thousand dollars and credit the same to the school sinking fund.

§ 158. **Public market sinking fund.**— The public market sinking fund is continued with the moneys contained therein. There must be added thereto all revenues from hucksters' licenses except the part thereof directed to be paid into the police pension fund, and an annual sum raised by taxation or taken from the

revenues of the market, sufficient to redeem at maturity the public market bonds.

§ 159. **Local improvement fund.**— The local improvement fund is continued with the moneys contained therein. There must be placed to the credit of said fund the proceeds of the sale of all bonds and notes issued for or upon account of public improvements or work involving a local assessment, and all amounts collected by the treasurer upon assessments and charges for public improvements and work involving a local assessment, including all interest collected thereon. There must be paid therefrom all bonds and notes heretofore or hereafter issued for or upon account of public improvements or work involving local assessments and the interest thereon, and all costs and expenses of public improvements or work involving local assessments heretofore made and remaining unpaid or hereafter made.

§ 160. **Accounts with treasurer.**— The comptroller must keep an account between the city and the treasurer of all moneys received and disbursed by the treasurer, and for that purpose he must procure daily statements from the treasurer as to the moneys received and disbursed by him, and must also procure from the banks in which the city funds are deposited by the treasurer, monthly statements of the moneys received and paid out on account of the city. He must also from time to time examine the treasurer's books, accounts and bank books and ascertain as to their correctness.

§ 161. **Examination of books.**— The comptroller has power at any time to examine the books and accounts of any department, board, bureau, court or officer of the city.

§ 162. **Duties and powers of treasurer.**— The treasurer may appoint to hold office during his pleasure, a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment; and it is his duty to demand, collect, receive, and have the care and custody of, and to disburse, all moneys belonging to or due the city from any source, and to deposit all moneys re-

ceived by him in such banks or trust companies as may be designated by the board of estimate and apportionment for that purpose; and no money may be drawn from such banks or trust companies except on checks or drafts signed by the treasurer and countersigned by the comptroller and made payable to the person entitled to receive the same, unless such moneys are drawn for public use in the treasurer's office, in which case the checks or drafts must be made payable to the order of the treasurer. No money must be paid out by him except upon audit of the comptroller. The treasurer must keep a separate account with every department, board, bureau, court, office, appropriation and fund for which moneys are appropriated in the annual estimate or raised by assessment, and must in every check or draft drawn by him state particularly against which of such funds it is drawn, unless the money is drawn for use in his office. He must at no time permit any of the appropriations for the same including moneys lawfully added thereto to be overdrawn, or a claim chargeable to one fund to be charged to another. He must perform such other duties as may from time to time be prescribed by law or by ordinance of the common council.

§ 163. **Custodian of pension funds.**— The treasurer is the custodian of the police pension fund, fire pension fund, and teachers' retirement fund; and all pensions granted in pursuance of the provisions of this act and payable from any of said funds must be paid out on a check or draft signed by the treasurer and countersigned by the comptroller.

§ 164. **Deposits and accounts.**— All moneys deposited by the treasurer must be placed to the credit of the city, and the interest thereon is the property of the city and must be accounted for and credited to the appropriate fund. The treasurer must keep bank books containing entries of his accounts or deposits in and moneys drawn from the banks or trust companies. He must exhibit such books to the comptroller for his inspection at least once a month, and oftener if required, and the banks or trust companies in which

such deposits are made must transmit to the comptroller monthly statements or evidences of the moneys received and paid out by them on account of the city.

§ 165. **Collection of taxes by city treasurer.**— The city treasurer must, on the first day of May in each year, proceed to collect and receive taxes from the several persons named in the annual tax rolls, and must immediately after receiving the rolls give public notice by advertisement in the official papers that all persons named in the tax rolls are required to pay their taxes to him at his office on and after the first day of May and before the fifteenth day of the following September, and stating the amounts to be added if payment is not made.

§ 166. **Rates of interest on taxes.**— The city treasurer must receive the amount of any tax levied in the annual tax rolls during the month of May without interest; and to all amounts not paid on or before the thirty-first day of May succeeding the levying of the tax, there is added and becomes a part of said tax, and must be collected by the city treasurer, the following interest: If paid during the month of June, an addition of one per centum; if paid during the month of July, an addition of two per centum; if paid after the last day of July and on or before the fifteenth day of August, an addition of three per centum; if paid after the fifteenth and on or before the last day of the month of August, an addition of four per centum; if paid after the last day of August and on or before the fifteenth day of September, an addition of five per centum; and if paid at any time after the fifteenth day of September, such addition of five per centum and also interest from that date upon the whole sum at the rate of twelve per centum per annum.

§ 167. **Publication of notices.**— The city treasurer must, immediately after the last day of August, give notice by publication for ten days in all the daily newspapers of the city, that all persons who have omitted to pay their taxes must pay the same to him at his office on or before the fifteenth day of September.

§ 168. **Warrants for taxes.**— It is the duty of the city treasurer upon all taxes remaining unpaid on the fifteenth day of October in each year, to issue as many warrants as he may deem proper, under his hand and directed to any person whom he may see fit to appoint a collector of the taxes specified in such warrant, commanding such person to levy the amount of such tax and such additional amount of five per centum interest, except that in no case is the amount so added to be less than twenty-five cents, and also interest upon the whole sum at the rate of twelve per centum per annum from the preceding fifteenth day of September, and the fees of said collector, by distress and sale of goods and chattels of the person against whom the said warrants are issued, or of any goods and chattels in his possession, wheresoever the same are found within the city, and to pay the same to the city treasurer, and to return such warrant within twenty days after the date thereof; and no claim of property to be made to such goods and chattels so found in possession of the said party is available to prevent a sale. After the return of any warrant, the treasurer, if he deem expedient, or if so directed by the common council, may issue a second or subsequent warrant for the taxes still remaining unpaid, with said percentage, interest and fees. Every collector holds his appointment during the pleasure of the treasurer and may at any time be removed or suspended by him, and the treasurer and his sureties are liable for any collector and for all moneys that may be collected or received by him. No warrant must be delivered to any collector until he has executed and delivered to the treasurer a bond to the city of Rochester with two or more sureties, approved by the treasurer, conditioned for the faithful performance of his duties as a collector of the taxes specified in such warrant and for the faithful accounting and paying over to the treasurer of all moneys that he may collect or receive under such warrant, and the treasurer must immediately file such bond in the office of the clerk of the county of Monroe, and the same becomes a lien upon the real estate situate in said county of all persons executing such bond. If any collector fail

to return any warrant issued to him as therein required, or fail to pay over to said treasurer all moneys collected or received by him, or fail to render a full and true account thereof, the supreme court or any justice thereof, on the application of the treasurer or of the city of Rochester, has jurisdiction on proof by affidavit or otherwise, to summarily enforce such return, payment or accounting, or all, as the case may be, by attachment and proceedings thereon in the same manner as if such collector were a sheriff or officer of that court. The fees of a collector are five per centum on the moneys collected by him, and while a warrant for a tax is in a collector's hands if such tax is paid to the treasurer, he must collect for the benefit of the collector such fee of five per centum.

§ 169. **Collectors' sales and notice.**— The collectors must give public notice of the time and place of sale of property distrained by them, at least six days previous to the sale, by notice posted up in at least three public places in the city, and the sale must be by public auction on the court house steps.

§ 170. **Disposition of surplus on collectors' sales.**— If the property distrained be sold for more than the amount of the tax percentage, interest and the costs, charges and expenses of such distress and sale, the surplus must be returned to the person in whose possession such property was when distress was made, if no claim be made to such surplus by any other person. If any other person claim such surplus on the ground that the property sold belonged to him and such claim be admitted in writing by the person for whose tax the same was distrained, the surplus must be paid to such owner; but if such claim be contested by the person for whose tax the property was distrained, the surplus money must be paid by the collector into the city treasury, there to be retained as a special deposit until the rights of the parties are determined by due course of law.

§ 171. **Publication of taxes due.**— The city treasurer must cause to be published in one or more of the daily papers of said city on some day in the month of December of each year, a list of

the several lots and parcels of land on which taxes levied for the current year remain unpaid, describing therein each lot and parcel of land in the same manner substantially as the same is described in the tax roll, together with the name of the person to whom each parcel is assessed and the amount of the tax thereon; and also a list of all taxes for the current year assessed upon account of personal property remaining unpaid stating the person against whom assessed and the amount thereof. Notice of the day on which and of the papers in which said list will be published must be given by the treasurer by publication in not less than four daily newspapers of said city at least ten days previous to the publication of said list. The sum of fifty cents must be collected as a part of each tax so published as aforesaid. The city treasurer must deliver to the corporation counsel in the month of January of each year a list of all taxes upon account of personal property due and remaining unpaid, and of all taxes upon real property remaining unpaid, which have been due and owing more than one year previous thereto.

§ 172. **Items added to annual tax to be collected as a part thereof.**— Local assessments and installments thereof, expenses of public improvements and work apportioned upon the property deemed benefited, water frontage taxes, water rates, expenses of cleaning and repairing sidewalks, and all other items, including the additions thereto, inserted in the annual tax rolls against real property, become a part of the annual tax upon the respective lots or parcels of land against which such items are charged, and the whole thereof becomes one tax and must be collected as such, except that the treasurer may in his discretion receive the annual tax upon a lot or parcel of land without some or all of the amounts added thereto. All of the provisions of this act relating to the collection of annual taxes including interest, fees and penalties thereon, and all other provisions relating to annual taxes are intended to refer to annual taxes and all sums added thereto and made a part thereof. After an annual tax is collected, the amounts added thereto for local assessments or installments

thereof, expenses of numbering houses, sprinkling, cleaning, care, embellishment and maintenance of public streets, highways and places done pursuant to ordinances of the common council, with the interest collected thereon, must be added to the local improvement fund; and the amounts added thereto for water frontage taxes and water rates, with the interest collected thereon, must be added to the revenues of the water works for the year in which the tax was levied, and in the case of water rates for the year in which the water rates were charged and became due.

§ 173. **Time assessments become due and interest thereon.**— A local assessment, if payable in one sum, or the first installment if payable in installments, becomes due on the first day of the month following the month in which the assessment roll is received by the city treasurer, if it is received on or before the fifteenth day of the month; and if received after the fifteenth day of the month, then such assessment or installment becomes due and payable on the fifteenth day of the month following the month in which the assessment roll is received; and if payable in installments, succeeding payments become due in each succeeding year on the day and month the first installment became due. The treasurer must collect and receive, in addition to the amount due on any assessment or installment, interest thereon at the rate of six per centum per annum from the date the assessment became due, if payable in one sum, or from the date the first installment became due if payable in installments; at any time after the first installment becomes due the whole assessment or any installment or installments thereof and accrued interest may be paid.

§ 174. **Publication of notice for payment of local assessments.**— After a local assessment roll is delivered to the city treasurer, he must give five days' public notice in the official papers of the receipt of such roll, requiring the persons assessed or the owners or occupants of the lots assessed to pay the same to him at his office.

§ 175. **Warrant for local assessment.**— If an assessment or any installment thereof is not paid when due, the city treasurer may

in his discretion issue a warrant or warrants for the collection thereof, together with interest, penalties and collector's fees, in the same manner and form and subject to the same restrictions and conditions as provided for a warrant for the collection of annual city taxes. If an assessment is paid after a warrant is issued and before it is reported to the assessors, the collector's fees must be added to and collected as a part of said assessment, even though the warrant has been returned.

§ 176. **Unpaid assessments to be inserted in annual tax rolls.** — In case any assessment or installment thereof has become due on or before the first day of March of any year, and the whole or any part thereof remains unpaid, it is the duty of the city treasurer, on or before the first day of May following, to insert the same in the annual tax rolls for the current year against the respective lots or parcels of land on which the assessments were originally levied, with an addition to each assessment or installment of ten per centum per annum from the time when due to the first day of June following the insertion. After the first day of March and before the first day of May following, the treasurer may in his discretion receive the amount of any assessment or installment inserted or to be inserted in the annual tax rolls for the current year with the aforesaid addition of ten per centum.

ARTICLE VII.

Department of Assessment and Taxation.

Section 187. Board of assessors.
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190. Insertion of taxes in annual tax rolls and delivery of same to treasurer.
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212. Warrants for collection of county taxes.
213. Collectors' sales and notices.
214. Disposition of surplus on county tax collectors' sales.
215. Other proceedings for the collection of county taxes.

Section 187. **Board of assessors.**— The head of the department of assessment and taxation is the board of assessors, composed of the assessors, and it must annually elect one of its members president thereof; it may adopt rules for the transaction of its business, and appoint such subordinates as the board of estimate and apportionment may prescribe.

§ 188. **Annual tax rolls.**— The annual tax rolls are prepared by the assessors on or before the fifteenth day of January in each year, the assessment of property for each ward being in a separate book provided for that purpose, and they must contain, as nearly

as can be ascertained, all real and personal property in the city liable to taxation and the value of the same as determined by the assessors, except as the fixing of valuation is by law or this charter otherwise provided. It is not necessary for non-residents to be designated therein as such or non-resident property to be placed in separate parts of the tax rolls. Real estate may be taxed in the name of the owner or occupant thereof or by any description by which it may be distinguished without reference to the owner or occupant thereof; and a tax thereon is not invalid as against the real estate by reason of the omission of the name of the owner or occupant thereof, or both, or because of any error in the name of the person or corporation taxed therefor. After the tax rolls have been prepared, the assessors must meet at their office to hear the allegations and objections of all persons interested in the assessments contained therein, of which at least ten days' previous notice must be given by publication in all the daily papers published in the city. At the time and place designated in said notice, and for ten consecutive days thereafter exclusive of Sundays, the assessors must meet and hear allegations and objections, and the tax rolls must be open to the examination and inspection of all persons interested, between the hours of nine and twelve in the morning and two and four in the afternoon. The assessors may add to the tax rolls any real or personal property omitted from the tax rolls of the previous year, at such valuation as they deem proper. The assessors may add real or personal property to the tax rolls or increase the value of real or personal property therein, at any time after the fifteenth day of January and before the verification of the rolls, upon giving the owner of such property an opportunity to be heard, upon at least three days' personal notice. The assessors may amend and correct the tax rolls as they deem proper. A statement of the lots liable to the water frontage tax as reported by the commissioner of public works, must on or before the first day of April in each year, be inserted by the assessors in the annual tax rolls. The expenses as reported by the comptroller of numbering houses,

sprinkling, cleaning, care, embellishment and maintenance of public streets, highways and places, and cleaning of sidewalks done pursuant to ordinances of the common council, which have then been reported to the assessors, must on or before the first day of April in each year, be inserted by the assessors in the annual tax rolls upon all the lots and parcels of land in the respective portions or parts of the city directed by the respective ordinances to be assessed therefor, apportioned upon each lot and parcel of land according to the benefit as nearly as can be ascertained which it is deemed to have received by the improvement or work for which it is assessed. The amounts, as reported by the commissioner of public works, of unpaid water rates and expenses of cleaning and repairing sidewalks done under the direction of the commissioner of public works, and all other items required to be inserted in the annual tax rolls, except local assessments or installments thereof which have then been reported to the assessors, must, on or before the first day of April in each year, be inserted by the assessors in the annual tax rolls against the respective lots or parcels of land on which the same are a charge or lien or in front of which the work was done. When finally completed, an oath substantially in the following form must be written or printed upon and attached to the tax rolls and each of them, signed by the assessors or a majority of them, and sworn to before an officer authorized to administer oaths, — namely: "We, the undersigned, do severally depose and swear that we have set down in the foregoing tax roll all the real estate situated in the ward, according to our best information; and that with the exception of those cases in which the value of the said real estate has been changed by reason of proof produced before us, we have estimated the value of the said real estate at the sums which the majority of the assessors have decided to be the full value thereof; and also that the tax roll contains a true statement of the aggregate amount of the taxable personal estate of each and every person or corporation named in such roll, over and above the amount of debts due from such persons or corporations, respectively, and excluding such stocks as are

otherwise taxable, and such other property as is exempt by law from taxation, at the full value thereof, according to our best judgment and belief." After being sworn to as aforesaid the tax rolls must, on or before the first day of April in each year, be delivered to the city clerk.

§ 189. **Insertion of local assessments in tax rolls.**— The assessors must permit the treasurer to have access to or possession of the tax rolls for the purpose of inserting therein unpaid local assessments, and installments thereof.

§ 190. **Insertion of taxes in annual tax rolls and delivery of same to treasurer.**— The assessors must insert in the annual tax rolls confirmed by the common council the taxes levied by that body. Every annual city tax creates a debt and personal obligation in favor of the city and against the person or corporation taxed. provided that at the time of the preparation of the tax rolls containing the same the person or corporation taxed is a resident of the state of New York, and in case of a tax upon real estate, the owner or occupant thereof. To each of the tax rolls there must be annexed a warrant under the hand of the mayor and the seal of the city, commanding the city treasurer to collect from the several persons named in the tax rolls the several sums levied as taxes in the columns of such rolls according to the provisions of this act, and such tax rolls must be delivered to the treasurer on or before the twentieth day of April in each year.

§ 191. **Assessment roll for local improvements.**— Upon the receipt of the report of the comptroller as to the expense of a public improvement or work to be assessed upon the property benefited, except the expenses of numbering houses, sprinkling streets, cleaning streets, care, embellishment and maintenance of streets, and cleaning of sidewalks, done pursuant to ordinances of the common council, which are inserted directly in the annual tax rolls, the assessors if they are not interested in any of the property directed by the common council to be assessed as benefited, and if any two of them are not so interested, then such two, must make an assessment upon all the lots and parcels of land within

the portion or part of the city directed to be assessed, apportioning the expense upon each lot and parcel of land according to the benefit as nearly as can be ascertained which it is deemed to have received by the making of such improvement or work, and for that purpose must make out an assessment roll in which must be entered the names of the persons assessed so far as they can ascertain the same, the value of the property for which they are assessed, and the amount assessed to them, respectively, with a brief description of the lots or parcels of land assessed.

§ 192. **All lands liable to local assessment, except Mount Hope cemetery.**— All lots and parcels of land in the city of Rochester, even though exempt from taxation under the general laws of the state, are liable to assessment for public improvements and work, except Mount Hope cemetery and lots and plats therein, heretofore or hereafter conveyed as places for the burial of the dead.

§ 193. **Appointment of special assessors.**— If there is only one assessor not interested in the property directed to be assessed, the common council must appoint a special assessor to act with him in making the assessment, and if all of the assessors are interested in the property to be assessed, then the common council must appoint two special assessors to make the assessment. The special assessors must make an affidavit and attach it to the assessment roll, to the effect that they are not interested in any of the property to be assessed, and that they will faithfully and impartially discharge the duties imposed upon them; and their compensation must be fixed by the board of estimate and apportionment.

§ 194. **Notice to hear allegations.**— Immediately after such assessment roll has been completed the assessors must determine the time and place where they will first meet to hear the allegations and objections of all persons interested in the assessment, of which previous notice must be given by publication in a daily newspaper in said city for at least ten days.

§ 195. **Hearing of allegations.**— At the time and place designated in such notice the assessors or a majority of them

must meet and hear the allegations and objections of all persons interested, who appear, and the assessment books must be open for the examination and inspection of all parties interested. The assessors may adjourn from time to time as deemed necessary, and may amend or correct such assessment roll as they deem proper.

§ 196. **Verification of assessment roll.**— When completed, an oath substantially in the following form must be written or printed upon or attached to the assessment roll, and be signed and sworn to by the assessors or a majority of them, namely: "We (names of assessors), the assessors of the city of Rochester, being severally sworn, depose and say, and each for himself says, that the foregoing assessment roll was made by them in pursuance of an ordinance of the common council; that due legal notice of their meeting was given, and the same was by them adopted, after such notice and allegations thereunder, and is, according to the best of their knowledge and belief, a just and true assessment as against the persons or property to be benefited, and according to the benefit derived." And they must sign a certificate substantially in the following form, which must also be written or printed upon or attached to the assessment roll: "We do hereby certify that the foregoing assessment roll is a true record of our determination of the same, after having heard allegations thereon, and we have fixed the amount assessed to the respective persons and property therein named as therein set forth, and the same is just and true." And thereupon the assessment roll must be delivered to the city clerk.

§ 197. **Effect of assessment.**— The assessment against any lot or parcel of land may be made in the name of the owner or occupant thereof, or by any description by which it may be distinguished without reference to the owner or occupant thereof; and an assessment is not invalid as against the real estate by reason of the omission of the name of the owner or occupant thereof, or both, or because of any error in the name of the person or corporation assessed therefor. Every assessment creates a debt and personal

obligation in favor of the city and against the person or corporation assessed, provided that at the time of the making of the assessment roll preparatory to hearing allegations thereon the person or corporation assessed is a resident of the state of New York and the owner or occupant of the lot or parcel of land assessed, for the collection of which, together with interest, costs and expenses, said city may maintain in its own name an action in any court of competent jurisdiction, in addition to any other remedies now provided by law for the collection thereof, and such action may be maintained even though said assessment has been added to the annual city tax.

§ 198. **State lands.**— Nothing herein contained is intended or is to be deemed to repeal or modify any of the provisions of section twenty of the public lands law.

§ 199. **Lien of taxes and assessments.**— All annual taxes and all local assessments heretofore or hereafter levied by the city of Rochester or by its officers, and all water rates heretofore or hereafter charged or assessed by the city of Rochester or by its officers, together with interest, fees and penalties, are and shall be and remain, until actually paid or satisfied or set aside by the common council or a court of competent jurisdiction, a lien upon the land, tenements or real estate on which or in respect to which the same have been made, from the time of the passage of the ordinances of the common council levying the same in the case of annual taxes, and from the time of the confirmation by the common council of the rolls containing the same in the case of local assessments, and from the time the same become due in the case of water rates; and are and shall be a lien on the property assessed prior and superior to all other liens and incumbrances. In case an annual tax or local assessment is levied upon a parcel of land and two or more persons are or become the owners thereof, or it is situate in more than one ward, the common council may apportion such tax or assessment upon such parcel of land in such manner as the assessors may certify to be just, and thereupon such tax or assessment becomes separate liens upon the respective parts

of such parcel of land and in the respective amounts designated by the common council.

§ 200. **Taxes and assessments validated.**— All annual taxes and local assessments heretofore or hereafter levied and assessed by the city of Rochester or by its officers, together with interest, fees and penalties, are and shall be valid and effectual, notwithstanding any irregularity, omission or error in the proceedings relating to the same or any of them, or in the making, levying or assessment of the same; and all proceedings for the collection of the same are and shall be valid and effectual, notwithstanding any irregularity, omission or error in such proceedings or any of them. All proceedings for the insertion heretofore or hereafter in the annual tax rolls of local assessments or installments, expenses of public improvements or work apportioned upon the property benefited, expenses of cleaning and repairing sidewalks, water frontage taxes, water rates, and all other items, and all the proceedings preliminary to inserting the same, including the adding of interest and penalties, are and shall be valid and effectual, notwithstanding any irregularity, omission or error in such proceedings or any of them. Nothing in this section contained applies to a local assessment heretofore set aside by the common council or a court of competent jurisdiction, or to local assessments against the state of New York.

§ 201. **Deeds to be delivered to assessors before recording.**— Every grant, deed or conveyance of lands in the city must, before the same is received for recording by the county clerk of Monroe county, be presented at the office of the assessors of the city, who must, without fee, note the said transfer of title upon the maps in their office, and also note the fact of such presentation upon the deed presented; but nothing herein contained affects or impairs the validity of any record in the said county clerk's office.

§ 202. **Maps of subdivisions of lands to be filed with assessors.** — Before the owner of any tract or parcel of land situate in the city of Rochester sells or conveys any portion thereof in subdivisions of such tract or parcel, he must cause a map of such

tract to be made showing the subdivisions thereof, with the numbers of the lots and their dimensions, and all proposed streets, lanes or alleys, which map must be filed in the office of the county clerk of Monroe county, and a copy or duplicate thereof delivered to the assessors of the city; and whenever such owner conveys any portion of said tract in such manner as to effect a subdivision of any lots as designated in such allotment, he must give notice thereof immediately to the assessors, specifying the part so divided and the manner of division. Any person violating the provisions of this section is guilty of a misdemeanor.

§ 203. **Procedure to review local assessments.**— If it is alleged that in the proceedings relative to a public improvement or work for which a local assessment is levied, or in the proceedings relative to the levying and making of the assessment therefor, or in any of the proceedings relative to a local assessment, there was any fraud or substantial error by reason of which the amount of such assessment is in excess of the amount which ought to have been lawfully levied or assessed upon all the lands in the territory of assessment or any lot or parcel of land therein, or that there was a lack of jurisdiction to levy and assess the whole or any part of said assessment, any party or parties aggrieved thereby may, within sixty days after the confirmation of the assessment roll, present a petition in writing, duly verified, to the supreme court at special term, or to a judge thereof, or to the county court of Monroe county or the county judge of Monroe county, asking to have the assessment vacated or reduced, and the court or judge thereupon, upon notice to the corporation counsel, may forthwith proceed to hear the proofs and allegations of the parties or may direct the same to be heard before a referee, or may direct that any issue of fact be tried before a jury. If, after such hearing, it is finally determined that there was fraud or substantial error or lack of jurisdiction as hereinbefore specified, the court may reduce the entire assessment or any part thereof, or may vacate and set aside the entire assessment or any part thereof.

§ 204. **Appeals from orders as to assessments.**— Either the city

or any party interested may appeal from the final order of the court or judge thereof upon any proceedings in relation to local assessments taken under this act, at the same time and in the same manner as an appeal from an order in a civil action.

§ 205. **Consolidation of proceedings.**— Two or more persons may unite in commencing proceedings in relation to local assessments under this act, and when separate proceedings to vacate or reduce assessments have been commenced for the same public improvement or work, the court or judge before whom the same were commenced or are pending, or where some are commenced in the Monroe county court and some in the supreme court, the supreme court at special term or a judge thereof at chambers, may make an order consolidating such separate proceedings into one proceeding.

§ 206. **Assessments not to be otherwise reviewed.**— Every local assessment is final and conclusive unless reviewed as provided in this act, and may not be vacated or reduced or set aside, or the lien thereof declared illegal or void or set aside, or a sale of property thereunder be declared illegal or void or restrained, or a deed or certificate given upon a sale thereunder be declared illegal or void, or any moneys paid on account of or because of said assessment be recovered back or refunded, unless proceedings to vacate or reduce such assessment are taken as provided in this act.

§ 207. **Action to recover money paid upon assessments.**— No action may be brought to recover money from the city of Rochester paid upon or upon account of a local assessment, until such assessment has been set aside or reduced as provided in this act and one year thereafter has elapsed.

§ 208. **Amendment and certification of rolls for county taxes.** — The assessors must, on or before the fifteenth day of September in each year, add to the annual tax rolls prepared for the current year, the shares of stock of banks or banking associations organized under the authority of this state or the United States, and may on or before said date make such additional amendments and corrections in said tax rolls as to the names of the actual owners or occupants and values of real and personal property

therein assessed as they deem proper, and must thereafter give notice by publication in the official papers for at least three days that they will meet at a time and place designated in said notice and hear allegations and objections to the additions and corrections made to said rolls, and must at the time and place designated meet and hear the allegations and objections of all persons appearing, and may amend and correct such additions and amendments as they deem proper. The assessors must, on or before the first day of October in each year, unless the time is further extended by resolution of the board of supervisors, certify and deliver to the supervisors of the several wards of the city, for the use of the board of supervisors, a correct copy of said tax rolls prepared for the current year as they then exist, including the additions, amendments and corrections thereto; and the board of supervisors must pay to the city of Rochester for the copy or copies for their use in the same manner as payment is made to the supervisors of the several towns for the town rolls.

§ 209. **Supervisors to levy taxes and annex warrants to tax rolls.**— After the board of supervisors of the county of Monroe has equalized and corrected the tax rolls of the city of Rochester and has inserted therein the county taxes levied and assessed by said board, it must on or before the fifteenth day of January next ensuing deliver said rolls to the county treasurer with a warrant annexed to each roll under the hands and seals of the chairman and clerk of the board of supervisors, commanding the treasurer of the county of Monroe to collect from the several persons named in said roll the sums mentioned in the last column of each roll opposite their respective names, and authorizing the county treasurer, in case any person named in the roll refuses or neglects to pay his taxes before the fifteenth day of April next ensuing, to levy the same by distress and sale of goods and chattels of such person.

§ 210. **Notice to pay county taxes; interest.**— Immediately after receiving such rolls and warrants, the county treasurer must give public notice, by advertisement, in all the daily newspapers

printed in the city of Rochester, that all persons named in said rolls are required to pay their taxes to him at his office before the fifteenth day of April then next, and stating the amount to be added if payments are delayed; the said treasurer must receive the amount of any tax levied on said tax rolls during the month of January and before the first day of February then next, without any addition thereto; if the same is paid on or after the first day of February and before the fifteenth day of February next succeeding the levying of said tax, he must charge and receive an addition of one per centum; if paid on or after the fifteenth day of February and before the first day of March then next, an addition of two per centum; if paid on or after the first day of March and before the fifteenth day thereof, an addition of three per centum; if paid on or after the fifteenth day of March and before the first day of April then next, an addition of four per centum; if paid on or after the first day of April and before the fifteenth day of April then next, an addition of five per centum.

§ 211. **Publication of notice to persons omitting to pay county taxes.**— The county treasurer must also, immediately after the said first day of April, give public notice in two of the public newspapers of the said city, to be published in such papers ten days, notifying all persons who have omitted to pay their taxes, to pay the same to him at his office before the fifteenth day of said month, and that in default thereof a warrant will be issued for the collection thereof according to law.

§ 212. **Warrants for collection of county taxes.**— It is the duty of the county treasurer, upon all taxes remaining unpaid on the fifteenth day of April next succeeding the levying of the taxes, to issue as many warrants as he deems proper, under his hand, each directed to any person whom he may see fit to appoint as collector of the taxes specified in such warrant, commanding such person, as such collector, to levy the amount of said tax, and an additional amount of five per centum, and also interest at the rate of twelve per centum per annum from said

fifteenth day of April, besides the fees of such collector, by distress and sale of goods and chattels of the persons against whom the said warrants are issued, or of any goods and chattels in his possession, wheresoever the same are found within said county, and to pay the same to the county treasurer and return such warrant within twenty days after the date thereof; and no claim of property to be made to such goods and chattels so found in the possession of the said party is available to prevent a sale. After the return of any warrant, the county treasurer, if he deem expedient, may issue a second or subsequent warrant for the taxes still remaining unpaid, with such percentage and interest and fees. Every collector holds his appointment during the pleasure of the county treasurer, and may, at any time, be removed or suspended by him, and the county treasurer and his sureties are liable for any collector and for all money that may be collected or received by him. No warrant may be delivered to any collector until he has executed and deposited with the county treasurer a bond to the treasurer, with two or more sureties, approved by the treasurer, and acknowledged in the manner required for the recording of conveyances of real estate, and conditioned for the faithful performance of his duties as a collector of the taxes specified in such warrant, and for the faithful accounting and paying over to the treasurer of all moneys that he may collect or receive under such warrant. If any collector fail to return any warrant issued to him, as herein required, or fail to pay over to the treasurer all money collected or received by him, or fail to render a full and true account thereof, the supreme court, or any justice thereof, has jurisdiction, on proof by affidavit or otherwise, summarily to enforce such return, payment or accounting or all, as the case may be, by attachment and proceedings thereon, in the same manner as if such collector was a sheriff or officer of that court; the interest and additional percentage must be paid to the county treasurer with the tax, and must be added to the contingent fund of said county. The treasurer, immediately after receiving the bond of any collector, must file the same in the office

of the clerk of Monroe county, and the same is a lien upon the real estate of any person executing the same, situated in said county; the collectors have full power and authority to execute such warrants in any part of the county. If any such collector neglect and refuse to pay over any money collected by him, he shall be deemed guilty of a misdemeanor.

§ 213. **Collectors' sales and notices.**— The collectors must give public notice of the time and place of sale of the property to be sold, at least six days previous to the sale, by advertisement to be posted up in at least three public places in the ward or town where such sale shall be made. The sale must be by public auction.

§ 214. **Disposition of surplus on county tax collectors' sales.**— If the property distrained is sold for more than the amount of the tax and percentage and interest, and the cost of such distress and sale, the surplus must be returned to the person in whose possession such property was when such distress was made, if no claim be made to such surplus by any other person; if any other person claim such surplus, on the ground that the property sold belonged to him, and such claim be admitted by the person for whose tax the same was distrained, the surplus must be paid to such owner; but if such claim is contested by the person for whose tax the property was distrained, the surplus money must be paid by the collector into the county treasury, there to be retained as a special deposit until the rights of the parties are determined by due process of law.

§ 215. **Other proceedings for the collection of county taxes.**— The county treasurer must take such other proceedings to enforce the collection of taxes as may be provided by law.

ARTICLE VIII.

BOARD OF CONTRACT AND SUPPLY.

Section 226. Board of contract and supply.
227. Duties of board of contract and supply.
228. Proposals.

Section 229. Opening of bids.
230. Designation of kind of pavement.
231. Contract and labor bonds.
232. Action by laborer on bond.
233. Guaranty bond.
234. Contract not to exceed estimate.
235. Contracts exceeding one year.
236. Secretary.
237. Supplies and materials under two hundred and fifty dollars.
238. Work under two hundred and fifty dollars.
239. Annual contracts for supplies and materials.
240. Emergency repairs.
241. Application of this article.

Section 226. **Board of contract and supply.**— The board of contract and supply is composed of the commissioner of public works who is president thereof, comptroller, corporation counsel, and city engineer. The mayor may at any time sit and vote as a member and act as president of the board. The board has power to appoint to hold office during its pleasure, a secretary and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 227. **Duties of board of contract and supply.**— It is the duty of the board of contract and supply after public notice and in accordance with regulations prescribed by general ordinances of the common council, to let to the lowest bidder who will give adequate security for the performance of his contract, all contracts for the performance of any work or for the supply of any materials in all cases where the expense of such work or materials or both exceeds the sum of two hundred and fifty dollars, unless by ordinance of the common council unanimously adopted and unanimously approved by the board of estimate and apportionment it is determined to be impracticable to procure such work or materials or both by contract; except that the board may let con-

tracts for sweeping, cleaning, caring for and embellishing streets and removing snow and ice from sidewalks, to other than the lowest bidder, upon petition of a majority of the property owners liable to be assessed for the cost thereof, owning not less than two-fifths of the feet front of property liable to be assessed, as appears by the records of the assessors. The notice must describe the work and materials for which contracts will be let, and the day and hour and place of the meeting of the board at which proposals therefor will be opened, and must state the character and amount of security, if any, required to accompany the bid or proposal to insure the execution of the contract in case it is awarded. Specifications for a public improvement or work must be prepared and set forth sufficient details thereof to inform all persons proposing to bid therefor of the nature of the work to be done and of the materials to be supplied, and the same must be written or printed and copies thereof delivered to applicants therefor.

§ 228. **Proposals.**— No contract must be let except after the receipt of sealed bids or proposals therefor, and no bid or proposal may be received at any time other than at a regular meeting of the board and unless they conform to the rules of the board and the general ordinances of the common council. All bids and proposals must be endorsed with the title of the work or materials to which they relate, the name of the bidder and his residence.

§ 229. **Opening of bids.**— It is the duty of each member of the board to be present at the time and place mentioned in the public notice for the receipt and opening of bids and proposals, and such meetings must be open to the public. After all the bids and proposals have been presented, but not until one-half hour after the time stated in the public notice for holding the meeting, all bids must be opened by some member of the board or its secretary publicly and in the presence of the bidders and other persons then present, and an abstract of all such bids or proposals with the prices and security offered must be transcribed in a book kept for that purpose without any change, correction or addition whatever. A majority of the board need not be present when such bids and

proposals are opened. The board may reject all bids or proposals received and re-advertise for new bids or proposals. The contract may be awarded at the meeting at which the bids are opened or within a reasonable time thereafter. No person submitting or on whose behalf a bid or proposal is submitted, or the principal or sureties on any bond or security accompanying the same has the right to withdraw or cancel any such bid, proposal or bond, except with the consent of the board of contract and supply, until the board has awarded the contract for which such bid or proposal is made and such contract has been executed. No bid may be accepted from or contract awarded to any person or corporation who, either as principal or surety, is in default to the city upon debt, contract or obligation.

§ 230. **Designation of kind of pavement.**— Separate plans and specifications must be prepared for each material specified by the common council as proposed to be used in paving or repaving a public street, highway or place, and for each particular kind, make, style or brand of material specified by the common council, if any, and proposals must be invited pursuant to the provisions of this act for all the materials and all the particular kinds, makes, styles and brands of materials so specified. A majority of the property owners liable to be assessed for the cost of such improvement, owning not less than two-fifths of the feet front of property, exclusive of city property, fronting the public street, highway or place to be paved or repaved, as appears by the records of the assessors, may at any time within one week after proposals for doing such work have been received and opened, present to the board of contract and supply a petition or other writing designating any material, or any particular kind, make, style or brand of material for which bids have been received, to be used in constructing the pavement; and if the property owners do not make such designation the common council must, not later than its next regular meeting after the expiration of one week from the receiving and opening of proposals, designate any material or any par-

ticular kind, make, style or brand of material for which bids have been received, to be used in constructing such pavement. If the common council fail to make such designation, the board of contract and supply may do so; and the contract for such improvement, if awarded, must be awarded to the lowest bidder for the material so designated, and if any particular kind, make, style or brand of material is designated, to the lowest bidder for such particular kind, make, style or brand of material.

§ 231. **Contract and labor bonds.**— The board may provide that the successful bidder must execute and deliver to the city a bond in a sum and with the number of sureties designated by it, conditioned for the faithful performance of the contract, or conditioned for the payment of the wages and compensation of all laborers employed on the work for which the contract is made, by the contractor, the subcontractor, agent or any other person; or containing both conditions.

§ 232. **Action by laborer on bond.**— Any laborer employed on municipal work performed by a contractor for which a bond conditioned for the payment of laborers has been given, may within six months after wages or compensation are due him, bring an action on such bond to recover any moneys claimed to be due him for work performed under such contract; and any number of laborers may unite in one action; but the city is not liable upon or by reason of such bond or for any costs or expenses in any action or proceeding thereon.

§ 233. **Guaranty bond.**— When the common council has provided for the guaranty of any public improvement or work, the board of contract and supply must cause to be executed and delivered to the city with the contract, a bond in an amount and with the number of sureties designated by it, conditioned for keeping and maintaining the improvement in good order and repair for the period designated by the common council, and containing such other conditions as the board may specify.

§ 234. **Contract not to exceed estimate.**— The board must not let a contract for a public improvement or work involving a local

assessment, for a greater sum than the estimated cost thereof, but if a greater amount than the estimated cost is necessarily expended in the improvement or work by reason of alteration or extension of the plans and specifications therefor, or otherwise, the whole cost thereof may nevertheless be computed by the comptroller and reported to the assessors to be assessed upon the portion or part of the city directed by the final ordinance to be assessed for the cost of the improvement or work.

§ 235. **Contracts exceeding one year.**— The board of contract and supply is authorized to let contracts for periods exceeding one year and providing for the payment of specified annual amounts thereon, for the collection, removal and disposal of ashes, garbage and dead animals, for the cleaning and sweeping of streets, for the lighting of public streets, highways and places; and when authorized by ordinance of the common council adopted by a vote of three-fourths of all the members, for the erection and construction of public buildings and works, subject to such restrictions as to annual payments and sources of payments as may be provided in such ordinance. Contracts for public improvements and work involving local assessments may be let for periods exceeding one year.

§ 236. **Secretary.**— The secretary of the board of contract and supply must keep a full journal of all the proceedings of the board, and must perform such other duties as may be required by the board or by law or by ordinance of the common council.

§ 237. **Supplies and materials under two hundred and fifty dollars.**— Supplies and materials not exceeding two hundred and fifty dollars in cost must be called for by requisition in writing signed by the head of the department, president of the board, judge of the court, or officer requiring the same, and delivered to the secretary of the board of contract and supply, who thereupon has the power to purchase the same, and he must deliver to the vendor a written order therefor upon which is printed or written a statement that the claim therefor is subject to audit of the comptroller, and such order must be delivered to the comptroller with

the claim therefor. The board of contract and supply may make such rules and regulations governing purchases by its secretary as it deems proper.

§ 238. **Work under two hundred and fifty dollars.**— Work not exceeding two hundred and fifty dollars in cost must be called for by requisition in writing signed by the head of the department, president of the board, judge of the court, or officer requiring the same, and delivered to the board of contract and supply or its secretary. The board must pass upon such requisition and when ordered the clerk must deliver to the officer making the requisition a written order therefor, upon which is printed or written a statement that the claim therefor is subject to audit of the comptroller; and thereupon such work may be done, and such written order must accompany the claim therefor when presented to the comptroller.

§ 239. **Annual contracts for supplies and materials.**— The board may let contracts for the furnishing of supplies or materials for the fiscal year or part thereof, and when requisitions are presented to the secretary for supplies or materials covered by such contracts, he must purchase the same under such contracts.

§ 240. **Emergency repairs.**— In case of accident or other injury by which the heating, plumbing or elevators in any of the municipal buildings or any of the fire or water works apparatus or water works system becomes disabled, the head of the department having jurisdiction thereof, if in his judgment public interests require it, may cause repairs thereto to be made without a letting by contract and without order of the board of contract and supply, upon filing with the comptroller a certificate approved by the mayor showing such emergency and the necessity for such repairs.

§ 241. **Application of this article.**— The provisions of this article do not apply to the department of parks, department of public instruction, or Mount Hope commission.

ARTICLE IX.

Department of Public Works.

Section 252. Commissioner of public works.
253. Powers and duties of commissioner.
254. Repair and cleaning of sidewalks.
255. City not liable without notice.
256. Abandoned streets.
257. Streets by prescription.
258. Power to remove encroachments and obstructions.
259. Power to enter upon streets for construction and repair of sewers.
260. Purchase of lands.
261. Water works bureau.
262. Duties of superintendent of water works.
263. Water works.
264. Water meters.
265. Power to enter upon streets for laying pipes.
266. Power to acquire real estate for water supply.
267. Extending water mains beyond the limits of the city.
268. Manner of acquiring real property for water works purposes.
269. Interference with water works property.
270. Tapping water pipes prohibited.
271. Statement of unpaid water rates.
272. Statement for water frontage tax.
273. No person or corporation to distribute water without franchise.
274. Bureau of weights and measures.
275. Duties and powers of sealer.

Section 252. **Commissioner of public works.**— The commissioner of public works is the head of the department of public works and has power to appoint to hold office during his pleasure a deputy, a superintendent of water works, a sealer of weights and

measures, and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 253. **Powers and duties of commissioner.**— The commissioner, subject to the provisions of law and ordinances of the common council, has general cognizance, direction and control of the construction, maintenance, alteration, repair, care, embellishment, cleaning, paving, flagging, grading, sprinkling, lighting and improvement of the public streets highways and places; of the construction, maintenance, alteration, repair, cleaning and extension of municipal sewers and drains, including the portion of the west side sewer now or hereafter within the city; of the construction, maintenance, alteration and repair of bridges and arches over any water or other places which the city is bound to construct or maintain; of the construction, alteration and repair of municipal buildings; of the construction, maintenance, alteration, extension, repair and care of the city water works and of all public improvements and work; of the collection and disposal of garbage and dead animals, ashes and other refuse; and he has power to make ordinary repairs or improvements upon and to clean public streets, highways and places, sidewalks, crosswalks, gutters, vaults, drains, culverts and bridges of the city. When any of the above improvements or work or any other similar public improvement or work is performed under contract with the city, the commissioner has general cognizance, direction and control thereof. Except as otherwise provided by law or ordinance of the common council, the commissioner of public works has over the public streets, highways and places within the city all the jurisdiction and is charged with all the duties of commissioners of highways within the towns of the state. The provisions of this section do not apply to the department of parks, the department of public instruction or Mount Hope commission.

§ 254. **Repair and cleaning of sidewalks.**— It is the duty of the owner of any lot or parcel of land to keep the sidewalks adjoining his lot or parcel of land in good repair, and of the

owner and the occupant of the ground floor of any structure thereon to remove and clean away all snow and ice and other obstructions from such sidewalks. The commissioner of public works has the power to cause to be repaired any sidewalk where the owner of the abutting property neglects or refuses to repair the same for five days after a written notice so to do has been served upon him, either personally or by leaving the same at his residence, or if he be a non-resident by mailing the same to him at his last known place of residence, or if the name of the owner or his place of residence cannot be ascertained after due diligence, by posting the same in a conspicuous place on the premises. The commissioner of public works has power to cause to be cleaned or removed from any sidewalk, snow, ice or other obstructions where the same have remained thereon for twelve hours. A bill or statement of the amount of expenses incurred in making such repairs or cleaning from the sidewalks snow, ice or obstructions, must be served on the owner as hereinbefore provided for the service of a notice to repair. If such expense is not paid, an affidavit of the actual cost thereof with an addition thereto of ten per centum and the property in front of which the work, repairs or cleaning was done, and the date of completion thereof, must be filed with the assessors of the city on or before the first day of March in each year. In addition to other remedies herein provided, the city of Rochester has a cause of action against any owner to collect the expense of any work or repairs done or made as aforesaid.

§ 255. **City not liable without notice.**— The city is not liable, and no action is maintainable against it for an injury to person or property caused by the existence of snow and ice, or either, upon any sidewalk, roadway, public street, highway or place, bridge, culvert or crosswalk, unless written notice thereof relating to the particular place has been given to the commissioner of public works a reasonable time before the happening of any such injury.

§ 256. **Abandoned streets.**— Every street not used by the public

as a street for twenty continuous years, and every street not opened or worked within twenty years from the time of its dedication or the time it was laid out or opened as a street, ceases to be a street; but the period during which any action or proceeding is pending in regard to any such street forms no part of such twenty years. This section does not give any person building upon, encroaching upon or obstructing a public street, highway or place, any right therein, or divest the city or public of its right therein, and the city is never barred by lapse of time from removing any obstruction, encroachment or structure upon a public street, highway or place.

§ 257. **Streets by prescription.**— All lands which have been used by the public as a street or highway for six years or more continuously, become a public street or highway with the same force and effect as if duly laid out and opened or dedicated as such, and such user is presumed to have been had with the assent and permission of the owner and all other persons having any right or interest therein, and to be conclusive evidence of an intention on their part to dedicate such lands to the public use.

§ 258. **Power to remove encroachments and obstructions.**— The commissioner may summarily remove any encroachment, obstruction or structure unlawfully maintained upon, over or under a public street, highway or place, or prevent the construction thereof if about to be constructed.

§ 259. **Power to enter upon streets for construction and repair of sewers.**— The commissioner of public works may enter upon any public street, highway or place in the city for the purpose of constructing, repairing, altering and maintaining public sewers and drains, and may enter upon any public street, highway or place without the city limits, subject to regulation by the officials having control thereof, for the purpose of constructing, repairing, altering and maintaining public sewers and drains, and may carry and conduct the same under or across any water course, canal or railroad within or without the limits of the city, provided that such public street, highway or place, or water course, canal or

railroad crossing so entered upon is restored in as good condition as before such entry; and the city may maintain sewers and drains in and under the public streets, highways and places within and without the city in which they are now laid.

§ 260. **Purchase of lands.**— Whenever the purchase of real estate or any right or easement therein is authorized by the common council, except for school purposes, the commissioner of public works must if possible purchase such real estate or right or easement therein at a price approved by the board of estimate and apportionment, and if unable to purchase the same at such price he must thereupon report to the corporation counsel his inability to make the purchase.

§ 261. **Water works bureau.**— The water works bureau is in the department of public works, and the chief officer thereof is the superintendent of water works, and he has power, with the approval of the commissioner, to appoint to hold office during his pleasure such subordinates as may be prescribed by the board of estimate and apportionment.

§ 262. **Duties of superintendent of water works.**— The superintendent of water works, under the direction and control of the commissioner, has the government and management of the water works and water works system.

§ 263. **Water works.**—It is the duty of the commissioner of public works to see that the city has an abundant supply of wholesome water for public and private use; to devise the plans and sources of water supply; to plan and supervise the distribution of water through the city; to protect it against contamination; to fix and adjust from time to time, with the approval of the board of estimate and apportionment, the prices and rates to be paid for the use and consumption of water, and special prices and rates may be fixed for consumers using extraordinary amounts of water, and for consumers outside of the city.

§ 264. **Water meters.**— The commissioner of public works has power to cause water meters to be placed in or upon any house,

building, structure or land where water is used, at the cost and expense of the owner of such house, building, structure or land.

§ 265. **Power to enter upon streets for laying pipes.**— The commissioner of public works may enter upon any public street, highway or place in the city, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water and for the purpose of constructing, repairing, altering, maintaining or extending any portion of the water works of said city, and may lay and construct such conduits, mains and pipes over, under or across any water course, canal or railroad, and may enter upon any public street, highway or place without the city limits, subject to regulation by the officials having control thereof, for the purpose of laying, altering, repairing and maintaining conduits, mains and pipes for the conveyance of water; and may carry and conduct the same over, under or across any water course, canal or railroad without the limits of the city, provided that such public street, highway or place, or water course, canal or railroad crossing so entered upon is restored in as good condition as before such entry; and the city may maintain its conduits, mains and pipes in and under the public streets, highways and places within and without the city in which they are now laid, and over, under or across the water courses, canals and railroads over, under or across which they are now maintained.

§ 266. **Power to acquire real estate for water supply.**— The city may acquire title to real estate, waters, lakes, springs, ponds or streams, or any right or easement therein, which may be necessary for the purposes of the water works of said city, or to protect the sources of water supply from pollution; and may enter upon, control and use the waters of Canadice and Hemlock lakes for the purpose of procuring a water supply; and has also the power to raise the surface of said lakes not to exceed two feet, and to draw down said water below low water mark not to exceed eight feet; and has the power to take such measures and make such constructions as may be necessary to secure said waters for the purpose intended and to protect the same from improper obstructions or pollution from any cause.

§ 267. **Extending water mains beyond the limits of the city.**— When authorized by ordinance of the common council, water mains may be extended beyond the limits of the city to the towns adjoining.

§ 268. **Manner of acquiring real property for water works purposes.**— When real estate, or rights or easements therein, or property rights are taken for water works purposes, such real estate, or rights or easements therein, or property rights must be acquired in the same manner as is provided herein for the acquisition of other real property.

§ 269. **Interference with water works property.**— Any person who wilfully does or causes to be done any act whereby any work, materials or property whatsoever erected or used by the city of Rochester for or in connection with the water works of said city is impaired or injured, or who diverts, draws down or diminishes the water of Hemlock or Canadice lake without authority of law, or who in any way interrupts or prevents the flow of water through the conduits, mains, pipes or service of said works, or who throws, deposits, places, casts, passes, or causes to be passed, cast, placed, deposited or thrown into the waters of Hemlock or Canadice lakes, or into any reservoir, conduit, aqueduct, main or pipe belonging to the waters* works of said city, any dead animal, deleterious, offensive, filthy, impure or obstructing matter, thing or liquid, or who places any of said described matter, thing or liquid so that the same may be washed or carried or flow into either of said lakes or any reservoir, conduit, aqueduct, main or pipe supplied with water therefrom, or who unlawfully trespasses upon water and lands acquired by the city of Rochester for the source of its water supply or the protection thereof, is guilty of a misdemeanor.

§ 270. **Tapping water pipes prohibited.**— Any person who, without the consent of the city of Rochester, its authorized officers and agents, taps, opens or connects with any conduit, main or pipe, or opens any hydrant, valve or stop-cock connected with the water works or water works system of said city, or makes any ex-

* So in original.

tension of existing service pipes, whereby increased quantities of water are or may be used without said consent, or leaves open any hydrant, valve, faucet, stop-cock or other fixture for continuous flow, of and through which there is continuous flow beyond what may be necessary for actual use for the purposes required in connection with such hydrant, valve, faucet, stop-cock or other fixture, is guilty of a misdemeanor.

§ 271. **Statement of unpaid water rates.**— It is the duty of the commissioner of public works on or before the first day of March in each year to report to the assessors of the city each and all unpaid water rates, adding thereto interest at ten per centum per annum from the time each became due to the first day of June following the report, with a description of the respective lots or parcels of land on which the same are charges or liens, and the name of the respective owners thereof.

§ 272. **Statement for water frontage tax.**— The commissioner of public works must, on or before the first day of March in each year, make and deliver to the assessors a statement of each lot on which no water rates accrued or were paid to the city during the preceding year, in cases where such lots are situate on a public street, highway or place in the city in which the city's water mains are laid and in use, and also of each lot exceeding two hundred feet in frontage on which the water rates accrued or paid to the city during the preceding year did not aggregate an amount equal to at least three cents on each lineal foot of the whole frontage. The statement must contain the name of the owner of each lot and the number of feet frontage thereof, except that in the hereinbefore specified case of a lot of over two hundred feet frontage the number of feet front in excess of two hundred must be specified; and such other description of the lots must be inserted as may be sufficient to identify them.

§ 273. **No person or corporation to distribute water without franchise.**— No person or corporation other than the city may enter upon or excavate any public street, highway or place in the city of Rochester for the purpose of laying conduits, mains or

pipes for the conveyance of water, without the permission of the common council, which body may deny any such application in its discretion; and no person or corporation other than the city may furnish, sell or distribute water within the city, except under a franchise granted as provided in this act.

§ 274. **Bureau of weights and measures.**— The bureau of weights and measures is in the department of public works, and the chief officer thereof is the sealer of weights and measures, and he has power, with the approval of the commissioner, to appoint to hold office during his pleasure such subordinates as may be prescribed by the board of estimate and apportionment.

§ 275. **Duties and powers of sealer.**— The sealer of weights and measures, under the direction and control of the commissioner, has the powers and must perform the duties of town sealers of weights and measures under the general laws of the state, and must supervise the weighing of coal as prescribed by law, and must inspect and seal weights and measures as prescribed by the ordinances of the common council or otherwise by law; and must perform such other duties as may be prescribed by ordinance of the common council.

ARTICLE X.

Department of Engineering.

Section 286. City engineer.
287. Powers and duties of city engineer.
288. Appointment of experts.
289. Application of article.

Section 286. **City engineer.**— The city engineer is the head of the department of engineering, and has the power to appoint to hold office during his pleasure a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 287. **Powers and duties of city engineer.**— It is the duty of the city engineer to perform all engineering and surveying services needed in the affairs or business of the city, and of the

departments, boards, bureaus and offices thereof; to supervise and inspect, under the general direction of the commissioner of public works, the construction, lighting and other improvement of the public streets, highways and places; the construction required in connection with the water works, sewers, drains, and all other public improvements and work; the construction, alteration and repair of municipal buildings. He must act as superintendent of municipal buildings, under such regulations as may be prescribed by ordinance of the common council, except buildings used exclusively by the department of public safety or any of the bureaus thereof. He must prepare ordinances for public improvements and work as directed by the common council, and make estimates, plans and specifications therefor; and furnish the necessary statements, descriptions and maps for the use of the assessors, and perform such other duties as may be prescribed by ordinance of the common council.

§ 288. **Appointment of experts.**— The city engineer, with the written consent of the mayor, may employ experts in important engineering work, at a compensation fixed by the board of estimate and apportionment.

§ 289. **Application of article.**— The provisions of this article do not apply to the department of parks, department of public instruction, or Mount Hope commission; but the common council may by ordinance direct the city engineer to perform engineering services for them, or any of them.

ARTICLE XI.

Department of Parks.

Section 300. Park commission.
301. Powers and duties of park commission.
302. Streets and roads in parks.
303. Power to order work and purchase supplies.
304. Power to lease.
305. Railroads and telephone lines through parks.

Section 300. **Park commission.**— The head of the department of parks is the park commission, consisting of the commissioners of parks, and it must annually elect one of its members president thereof, and may adopt rules for the transaction of its business.

§ 301. **Powers and duties of park commission.**— The park commission has power to appoint to hold office during its pleasure a superintendent of parks and such other subordinates as it deems proper, and to fix their compensation and regulate their duties. It has the control, care, management and maintenance of all the public parks and public squares within or belonging to the city and of the roads therein, except the furnishing of police protection therefor; and it has the power to cause the public parks and squares to be improved, extended and repaired and to cause buildings, structures, lakes, roads and other works to be erected or constructed therein, and to maintain and keep in repair all buildings, structures, lakes, roads and other works erected or constructed therein, and to furnish amusements and attractions therein; and the commission and the superintendent of parks each has the power and it is their duty to cause to be removed all trees and shrubs in the public streets, highways and places of the city which in its judgment or in the judgment of the superintendent of parks are or are likely to become dangerous or detrimental or an interference with or hindrance to the full use of the public streets, highways and places, and to cause to be pruned and trimmed all trees and shrubs in the public streets, highways and places, and to cause to be cut off, pruned or trimmed all limbs and branches extending or hanging over the public streets, highways and places.

§ 302. **Streets and roads in parks.**— Streets and roads within the public parks are not public highways or streets. Roads and highways within lands hereafter acquired for park purposes thereupon cease to be public highways.

§ 303. **Power to order work and purchase supplies.**— The park commission has power to cause work to be done and to purchase supplies and materials necessary in the performance of its duties. When the cost of any work or materials and supplies, or both,

exceeds two hundred and fifty dollars, a written contract therefor in the name of the city must be entered into, signed by the president of the park commission, after the receipt of bids therefor upon notice published at least three days in the official papers. The power conferred by this section is subject to the limitations provided in this act as to expenditures of money.

§ 304. **Power to lease.**— The park commission has power to lease any building or structure in the public parks for a term not exceeding three years, and to let for any term not exceeding three years the right to sell refreshments, provisions or other articles within the public parks upon such terms and conditions as it may prescribe; and has power to license hacks for use in the public parks for any term not exceeding three years; and the proceeds of such leases and licenses must be deposited with the treasurer and placed to the credit of the department of parks and may be used in addition to its appropriation for the year in which it is received.

§ 305. **Railroads and telephone lines through parks.**— No railroad must be laid in, upon, over or through the public parks or squares of the city, except that a street surface railway for the carriage of passengers only may be laid therein with the consent of the park commission, and upon such terms and conditions as it may prescribe. No telegraph or telephone line and no poles therefor may be erected or constructed in, over, under or through the public parks and squares, except with the consent of the park commission and upon such terms and conditions as it may prescribe.

ARTICLE XII.

Department of Public Safety.

Section 316. Commissioner of public safety.
317. Powers and duties of commissioner.
318. Appointment of probation officers.
319. Powers and duties of secretary.
320. Police bureau.

Section 321. Powers and duties of chief of police.
322. Fire bureau.
323. Powers and duties of chief of fire force.
324. Rules for police and fire force.
325. Police and fire force to remain as now constituted.
326. Appointment of policemen and firemen.
327. Qualifications of policemen and firemen.
328. Tenure of office of policemen and firemen.
329. Compensation for loss and injury.
330. Charges and trials of policemen and firemen.
331. Exemption from military and jury duty.
332. Powers and duties of policemen.
333. Service of process.
334. Political activity prohibited.
335. Police pension fund.
336. Fire pension fund.
337. Health bureau.
338. Health officer.
339. Appointment of experts.
340. Commissioner has powers of board of health.
341. Charges and trials of health officer and subordinates.
342. Appeals from orders of health officer.
343. Inspection of public buildings.
344. Approval of plans for sewers and drains.
345. Health districts.
346. City physicians.
347. Actions to restrain nuisances.
348. Duty in case of peril to public health.
349. Public health law applicable.
350. Bureau of buildings.
351. Powers and duties of fire marshal.
352. Powers may be delegated.

Section 316. **Commissioner of public safety.**— The commis-

sioner of public safety is the head of the department of public safety, and he may appoint to hold office during his pleasure a secretary, a fire marshal, and such other subordinates as may be prescribed by the board of estimate and apportionment. Whenever a vacancy occurs in the office of chief of police, chief of the fire force, or health officer, the commissioner of public safety may appoint a suitable and competent person to fill the same. The chief of police, the chief of the fire force and the health officer each holds office during good behavior or until permanently incapacitated or unfit to discharge the duties of the office.

§ 317. **Powers and duties of commissioner.**— The commissioner of public safety has cognizance, jurisdiction, supervision and control of the police bureau, fire bureau, health bureau and bureau of buildings, and of the officers and members thereof, and possesses and must exercise fully and exclusively all powers and perform all duties pertaining to the government, maintenance and direction of said bureaus, and the officers and members thereof, the apparatus and property thereof, and the buildings furnished for the exclusive use thereof; and he possesses such other powers and must perform such other duties as may be prescribed by law or by ordinance of the common council.

§ 318. **Appointment of probation officers.**— The commissioner may appoint to hold office during his pleasure, such number of probation officers as may be prescribed by the board of estimate and apportionment, which number may include one or more female probation officers, if so provided by the board, and they possess the powers now or hereafter conferred by law upon probation officers, and must perform such duties as may be prescribed by the commissioner or otherwise by law.

§ 319. **Powers and duties of secretary.**— It is the duty of the secretary to attend to the office of the commissioner, and to keep under his direction all the records and papers of the department, and to keep a record of all the official acts of the commissioner; and he has power to administer oaths and take affidavits in all matters and proceedings pertaining to the department, and

must perform such other duties as may be imposed upon him by the commissioner or by ordinance of the common council.

§ 320. **Police bureau.**— The police bureau is in the department of public safety, and the chief officer thereof is the chief of police.

§ 321. **Powers and duties of chief of police.**— The chief of police, under the direction and control of the commissioner, has the supervision and management of the police force, and he has the power, and it is his duty to see that all rules and regulations of the commissioner of public safety relating to the police force are enforced and carried out; to commit any person charged with a criminal offense until an examination is had before the proper magistrate; to administer oaths and take affidavits in respect to all matters pertaining to his official duties or relating to the police force; and to perform such other duties as may be prescribed by law, the commissioner of public safety, or by ordinance of the common council.

§ 322. **Fire bureau.**— The fire bureau is in the department of public safety, and the chief officer thereof is the chief of the fire force.

§ 323. **Powers and duties of chief of fire force.**— The chief of the fire force, under the direction and control of the commissioner, has the supervision and management of the fire force, and he must perform such duties as may be prescribed by law, by the commissioner of public safety, or by ordinance of the common council.

§ 324. **Rules for police and fire force.**— The commissioner must make rules and regulations not inconsistent with the provisions of this act and other laws of the state, or the ordinances of the common council, for the government, direction, management and discipline of the police force and of the fire force.

§ 325. **Police and fire force to remain as now constituted.**— The police force and the fire force shall each as to its component parts remain as now constituted, until the same is changed by ordinance of the common council.

§ 326. **Appointment of policemen and firemen.**— The commissioner has authority to appoint, as vacancies occur, all the members of the police and fire forces and at all times to classify and distribute them into grades to conform to the ordinances of the common council.

§ 327. **Qualifications of policemen and firemen.**— No person may be appointed to membership in the police or fire force, or continue to hold membership therein, who is not a citizen of the United States, who is not of good moral character, who has ever been convicted of any crime, who cannot understandingly read and write the English language, or who has not resided in the city during two years next preceding his appointment.

§ 328. **Tenure of office of policemen and firemen.**— All the officers and members of the police and fire force subject to the power of removal herein contained, hold their respective offices during good behavior, or until by age or disease they become permanently incapacitated to discharge their duties.

§ 329. **Compensation for loss and injury.**— The commissioner, when authorized by ordinance of the common council, may compensate officers and members of the police and fire force for loss of personal property and for medical and hospital expenses arising from injuries incurred in actual performance of duty, in an amount fixed by such ordinance.

§ 330. **Charges and trials of policemen and firemen.**— If a charge be made by any person against any officer or member of the police or fire force, that he has been guilty of neglect of duty, or negligent or derelict in the performance thereof, or guilty of misconduct in his office, or that he is incompetent to perform the duties thereof, or that he is incapacitated by age or disease or infirmity to properly discharge the duties thereof, or that he is guilty of some delinquency or misconduct showing an unfitness for office, or that he has violated the rules of the commissioner of public safety, the charge must be put in writing in the form required by the rules of the commissioner of public safety, and a copy thereof must be served upon the accused person. It is then

the duty of the commissioner to hear, try and determine the charge according to the rules made by him in relation to such matters. The accused person has the right to be heard in person and by counsel, and to give and furnish evidence in his defense. All trials are open to the public. The commissioner has power to issue subpoenas under his name and official title to compel the attendance of witnesses upon any hearing, and any person duly served with a subpoena is bound to attend in obedience to the command thereof. If the accused person is found guilty of the charge against him, the commissioner may punish him by reprimand, by forfeiture of pay for some definite time, by a fine not exceeding fifty dollars, by a reduction in grade, or by dismissal from the force, or may subject him to any other discipline prescribed in the rules promulgated by the commissioner of public safety. The commissioner may summarily dismiss from the force any person failing or neglecting to pay within the time or times prescribed by the commissioner, a fine imposed by him. The decision of the commissioner is final and conclusive, and not subject to review by any court.

§ 331. **Exemption from military and jury duty.**— No officer or member of the police or fire force is liable to military or jury duty, or while actually on duty to arrest on criminal or civil process.

§ 332. **Powers and duties of policemen.**— The members of the police force, excepting the surgeons, in criminal matters have all the powers of peace officers under the general laws of the state, and they also have the power and it is their duty to arrest any person found by them violating any penal ordinances of the city or laws of the state, and to take such person before the police justice, to be dealt with in the same manner as if such person had been arrested upon a warrant theretofore duly issued by such magistrate. It is their duty to report violations of law and ordinances, coming to their knowledge in any way, under regulations prescribed by the commissioner of public safety. They also have in every part of the state in criminal matters all the powers

of constables; and any warrant for search or arrest issued by any magistrate of the state may be executed by them in any part of the state, according to the tenor thereof without endorsement.

§ 333. **Service of process.**— All criminal process for any offense committed within the city, and all process to punish violations of penal ordinances, and every process, subpoena or bench warrant issued by the district attorney of the county of Monroe relating to any offense within the city, and every process, subpoena or warrant issued by any coroner of Monroe county in any inquest held in the city relative to the death of any person, may be served by members of the police force.

§ 334. **Political activity prohibited.**— No officer or member of the police force may be a member of or delegate to any political convention, or be present at such convention except in the performance of official duty; and he may not solicit any person to vote at any political caucus, primary or election, for any candidate, or challenge any voter or in any manner attempt to influence any voter at any political caucus, primary or at any election, or be a member of any political committee. Any person violating the provisions of this section forfeits his position, and it is the duty of the commissioner of public safety, after a hearing as hereinbefore provided, to dismiss him from the force.

§ 335. **Police pension fund.**— 1. Pension fund. The police pension fund, in addition to the moneys therein contained, consists of:

(a) All fines imposed upon members of the police force by the commissioner of public safety, and all moneys, pay, compensation or salary, or any part thereof forfeited, deducted or withheld from any member or members of the police force for or on account of absence for any cause, lost or sick time, sickness or disability.

(b) All moneys paid for special services of policemen at balls, parties, weddings, excursions or picnics, and all rewards or gifts paid or given to any member of the police force for his services; all moneys paid to policemen as witnesses in actions in the line of their duties, either before any grand jury or upon trial of any

criminal action; also all moneys paid for the service of policemen in bringing prisoners from other places to the city of Rochester or taking prisoners from the city of Rochester to any other place.

(c) The avails of all lost or stolen securities, choses in action, moneys, things or other property which remain unclaimed in possession of the police force for the period of six months after conviction for stealing the same, together with the avails of all unclaimed or confiscated property of every nature whatsoever which has been in custody of the police force for such period of six months; and all cash, money or property left as security or in lieu of bail for appearances in police court and forfeited, whether deposited with the county treasurer or with the police justice or any other official.

(d) All fines imposed in the police court and collected for carrying or having in custody concealed or dangerous weapons, and for violations of an ordinance of the common council entitled "An ordinance relating to public safety and good order" as now or hereafter amended; and all fines imposed in the police court and collected for non-registration of dogs.

(e) All revenues derived from licenses for use of triplet, billiard and pool tables or any other similar table for revenue, bowling alleys and pawnbrokers, junk dealers and lunch wagons and five dollars from each huckster's annual license fee, and all fines and penalties imposed and collected through prosecutions connected with the use of triplet, billiard and pool tables, bowling alleys and lunch wagons and through prosecutions relating to pawnbrokers, junk dealers and hucksters.

(f) Such sum per month to be paid by each member of the police force as may be agreed upon by the members thereof, not less than two per centum of the monthly pay, salary or compensation of each member of the police force; such sum to be deducted by the city treasurer and credited to the pension fund.

(g) The sum of three thousand dollars, which must be provided for in the annual estimate and raised in the annual levy of taxes.

(h) One and one-half per centum of all moneys received annu-

ally by the city from liquor tax receipts, which percentage must be annually deducted therefrom and credited to the police pension fund.

2. Pensions.

(a) The commissioner of public safety has power in his discretion, upon the certificate of the police surgeon, to retire and dismiss from membership any member of the police force who after fifteen years' and less than twenty years' service therein becomes superannuated by age, permanently insane or mentally incapacitated or disabled, physically or mentally, so as to be unfitted or unable to perform full police duty by reason of such disability or disease contracted without misconduct on his part, and to thereupon grant him a pension of an annual sum not less than two hundred and fifty dollars and not exceeding five hundred dollars.

(b) The commissioner of public safety has power in his discretion to retire and dismiss from membership any member of the police force who has performed duty therein for a period of twenty years or upwards, upon the application in writing of such member; and also any member of the police force who while in and by reason of the actual performance of duty and without fault or misconduct on his part is injured and becomes permanently disabled, physically or mentally, so as to be unfitted to perform full police duty, upon the certificate of the police surgeon showing that such member is permanently disabled, physically or mentally, so as to be unfit for duty, and to thereupon grant a pension to the retired member in either of the above cases of an annual sum not less than one-half his salary or compensation at the time of retirement; which pension is for the natural life of the member so retired and must not be revoked, repealed or diminished.

3. Pensions to widows and children.— The commissioner of public safety has power in his discretion to grant a pension to the widow of a member who is killed in the actual performance of duty or dies from the effect of an injury received in the actual

performance of duty, of an annual sum not exceeding one-half of the salary or compensation of the deceased member and not exceeding five hundred dollars; and to grant a pension to the widow of a member retired upon a pension after twenty years' service, of an annual sum not exceeding one-half of the salary or compensation of the deceased member at the time of his retirement and not exceeding five hundred dollars; and to grant a pension to the widow of a member who dies after fifteen years' service or after having been retired upon a pension after fifteen years' service, of an annual sum not exceeding two hundred and fifty dollars. If in addition to the widow, the deceased member leave a child or children under eighteen years of age, then the amount of pension may be divided between the widow and children in such proportion and in such manner as the commissioner of public safety may direct; and if the deceased member leave a child or children under eighteen years of age, and no widow, or if a widow, then after her death, the commissioner in his discretion may grant such pension to the child or children under eighteen years of age. If the deceased member leave no widow or child, but a parent or parents wholly dependent upon him for support, the commissioner in his discretion may grant such pension to the parent or parents or to the survivor of them. If the deceased member leave no widow, child or dependent parent, but one or more brothers and sisters wholly dependent upon him, under sixteen years of age, the commissioner in his discretion may grant such pension to such brothers and sisters, to be apportioned among them as the commissioner may direct. When a member of the police force who has been retired on a pension thereafter marries, his widow and children of such marriage are not entitled to pensions under this act.

4. Computation of time of service.— In computing the time of service of any member of the police force for the purposes of granting a pension to him or his widow or children, the term of service of such member on any regular police or fire force of the city must be computed and taken the same as service on the police

force of the city, and it is not necessary that such service has been continuous.

5. Termination of pensions.—A pension to a widow terminates when the widow remarries, and a pension to a child terminates when the child arrives at the age of eighteen years or when the child marries before reaching the age of eighteen years; and a pension to a dependent brother or sister terminates when he or she reaches the age of sixteen years.

6. Revocation of pensions.— The commissioner of public safety may in his discretion revoke any pension granted, or any part thereof, except in the case of members of the police force retired after twenty years' service or because of injury received in the actual performance of duty, and he must upon revoking any pension or part thereof file with the chief of police a written statement of the cause of such revocation.

7. Pro rata payment.— Should the moneys in the police pension fund at any time be inadequate to fully pay all pensions granted and payable therefrom, a pro rata amount of the respective pensions granted may be paid to the pensioners.

8. Auditing committee.— An auditing committee consisting of three members must be elected annually on the first Monday of January in each year from the membership of the police force, at a meeting thereof called for that purpose by the chief of police. The committee must audit the accounts of the comptroller and treasurer relating to the police pension fund, and must report the result thereof to the police force at a special meeting called for that purpose by the chief of police on the fourth Monday of January in each year.

9. False oaths punishable.—Every person who knowingly or wilfully in any wise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for a pension from the police pension fund or payment thereof, or who wilfully swears falsely in any oath or affirmation in obtaining or procuring any pension from said fund or payment thereof, is guilty of a felony.

10. Pension moneys exempt from execution.— The moneys, securities and effects of the police pension fund and all pensions and moneys granted and payable from said fund, are and shall be exempt from execution and from all process and proceedings to recover the same or to enjoin or stay the payment of the same by or on behalf of any creditor or person having or asserting any claim, debt or liability against any pensioner of said fund.

§ 336. **Fire pension fund.**—

1. Pension fund.—The fire pension fund, in addition to the moneys therein contained, consists of:

(a) All fines imposed upon members of the fire force by the commissioner of public safety, and all moneys, pay, compensation or salary, or any part thereof, forfeited, deducted or withheld from any member or members of the fire force for or on account of absence or suspension from duty.

(b) All awards, money, fees, gifts, testimonials and emoluments that may be paid or given for or on account of services by the fire force or any member thereof.

(c) All fees received for licenses of theatres and public places of amusement.

(d) All fines or penalties imposed and collected for violation of ordinances of the common council relating to the management, conduct and control of or interference with the fire force of the city, and also relating to the erection and construction of wooden buildings.

(e) Two per centum of the monthly pay, salary or compensation of each member of the fire force, to be deducted monthly and credited to the fire pension fund.

(f) The sum of three thousand dollars, which must be provided for in the annual estimate and raised in the annual levy of taxes.

(g) Two per centum of all moneys received annually by the city from the liquor tax receipts, which percentage must be annually deducted therefrom and credited to the fire pension fund.

2. Pensions.—

(a) The commissioner of public safety has power in his discretion, upon the certificate of a surgeon designated by him, to retire and dismiss from membership any member of the paid fire force who after twenty years' membership therein becomes superannuated by age, permanently insane or mentally incapacitated or disabled, physically or mentally, so as to be unfitted or unable to perform full fire duty by reason of such disability or disease contracted without misconduct on his part, and to thereupon grant him a pension of an annual sum not less than one-half his salary or compensation at the time of retirement.

(b) The commissioner of public safety has power in his discretion to retire and dismiss from membership any member of the paid fire force who has performed duty therein for a period of twenty years or upwards, either as a paid or minute man, and who has attained the age of fifty years, upon the application in writing of such member; and also any member of the paid fire force who while in and by reason of the actual performance of duty, and without fault or misconduct on his part, is injured and becomes permanently disabled, physically or mentally, so as to be unfitted to perform full fire duty, upon the certificate of a surgeon designated by the commissioner of public safety showing that such member is permanently disabled, physically or mentally, so as to be unfit for duty; and to thereupon grant a pension to the retired member in either of the above cases, of an annual sum not less than one-half his salary or compensation at the time of retirement; which pension is for the natural life of the member so retired and must not be revoked, repealed or diminished.

3. Pensions to widows and children.— The commissioner of public safety has power in his discretion to grant a pension of an annual sum not exceeding three hundred dollars per annum, to the widow of any member of the fire force who is killed while in the actual performance of duty or who dies from the effect of an injury received in the actual performance of duty, or who dies after fifteen years of service in the fire force or after having been

retired upon a pension under this act. If in addition to the widow, the deceased member leave a child or children under eighteen years of age, then the amount of pension may be divided between the widow and children in such proportion and in such manner as the commissioner of public safety may direct; and if the deceased member leave a child or children under eighteen years of age, and no widow, or if a widow, then after her death, the commissioner in his discretion may grant such pension to the child or children under eighteen years of age. If he leave no widow or child, but a parent or parents wholly dependent upon him for support, the commissioner in his discretion may grant such pension to the parent or parents or to the survivor of them. If he leave no widow, child or dependent parent, but one or more brothers and sisters wholly dependent on him, under sixteen years of age, the commissioner in his discretion may grant such pension to such brothers and sisters, to be apportioned among them as the commissioner may direct. When a member of the fire force who has been retired on a pension thereafter marries, his widow and children of such marriage are not entitled to pensions under this act.

4. Termination of pensions.—A pension to a widow terminates when the widow remarries; and a pension to a child terminates when the child arrives at the age of eighteen years or when the child marries before reaching the age of eighteen years; and a pension to a dependent brother or sister terminates when he or she reaches the age of sixteen years.

5. Revocation of pensions.—The commissioner of public safety may in his discretion revoke any pension granted or any part thereof, except in cases of members of the fire force retired after twenty years' service or because of injury received in the actual performance of duty; and he must upon revoking any pension or part thereof, file with the chief of the fire force a written statement of the cause of such revocation.

6. Pro rata payment.— Should the moneys in the fire pension fund at any time be inadequate to fully pay all pensions granted

and payable therefrom, a pro rata amount of the respective pensions granted may be paid to the pensioners.

7. Auditing committee.—The fire force must elect annually an auditing committee of three members who may be chosen from the members of the fire force, including those retired upon a pension, and from the members of the Firemen's mutual benefit association. The committee must audit the accounts of the comptroller and treasurer relating to the fire pension fund, and must report the result thereof to the fire force.

8. False oaths punishable.—Any person who knowingly or wilfully in any wise procures the making or presentation of any false or fraudulent affidavit or affirmation concerning any claim for a pension from the fire pension fund or payment thereof, or who wilfully swears falsely in any oath or affirmation in obtaining or procuring any pension from said fund or payment thereof, is guilty of a felony.

9. Pensions exempt from execution.—The moneys, securities and effects of the fire pension fund and all pensions and moneys granted and payable from said fund are and shall be exempt from execution and from all process and proceedings to recover the same or to enjoin or stay the payment of the same by or on behalf of any creditor or person having or asserting any claim, debt or liability against any pensioner of said fund.

§ 337. **Health bureau.**— The health bureau is in the department of public safety, and the chief officer thereof is the health officer, and he has power, with the approval of the commissioner, to appoint to hold office during his pleasure a deputy and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 338. **Health officer.**— The health officer, under the direction and control of the commissioner, has the supervision and management of the health bureau, and possesses such powers and must perform such duties as are prescribed by the commissioner, by ordinance of the common council, by this act, or otherwise by law. No person is eligible to the office of health officer unless he is a

physician and surgeon duly authorized to practice medicine under the laws of this state and has had at least ten years' active practice in his profession.

§ 339. **Appointment of experts.**— The health officer, with the written consent of the mayor, may with the approval of the commissioner, temporarily employ such health and sanitary experts as may be necessary, at a compensation fixed by the board of estimate and apportionment.

§ 340. **Commissioner has powers of board of health.**— The commissioner of public safety exercises all the powers and is charged with all the duties now or hereafter conferred upon or required of local boards of health by the laws of this state, so far as the same pertain to cities, with the exceptions, limitations and additions herein contained. The power now or hereafter conferred by the laws of this state on the local boards of health to make and publish general orders and regulations for the preservation of life and health and the execution of the public health law, must not be exercised by the commissioner, but is vested in the common council, to be exercised by ordinances adopted and with the fine, imprisonment and penalties as herein provided. The power to make special or individual orders and regulations for the suppression of nuisances and concerning other matters detrimental to public health, not of general application, now or hereafter conferred upon local boards of health, may be exercised by the commissioner of public safety in the manner now or hereafter provided by law.

§ 341. **Charges and trials of health officer and subordinates.**— If a charge is made by any person against the health officer or any of his subordinates that he has been guilty of neglect of duty or negligent or derelict in the performance thereof, or guilty of misconduct in his office, or that he is incompetent to perform the duties thereof, or that he is incapacitated by age or disease or infirmity to properly discharge the duties thereof, or that he is guilty of some delinquency or misconduct showing unfitness for

the office, and if in the case of a subordinate, the health officer after such charges are made refuse to discharge him, the commissioner must then hear, try and determine the charge. The charges must be served, the hearing had, and the commissioner may punish as is provided herein for charges and trials of members of the police and fire force. The decision of the commissioner is final and conclusive and not subject to review by any court.

§ 342. **Appeals from orders of health officer.**— Any person aggrieved by an order, decision or direction of the health officer may appeal therefrom to the commissioner by serving on the health officer a written notice of appeal within two days, Sundays and legal holidays excepted, after he has received notice of the order, decision or direction appealed from, or within such further time as may be allowed by the commissioner. Within two days after receiving such notice of appeal, Sundays and legal holidays excepted, the health officer must make a written return to the commissioner of facts and evidence on which such order, decision or direction is founded. The commissioner may suspend the order, decision or direction appealed from until the decision of the appeal. Upon receipt of such return, or if no return be made within the time specified, the commissioner must forthwith proceed to hear and determine the matter upon the return, or, in his discretion, upon additional evidence taken by him; and he may affirm, reverse or modify the order, decision or direction appealed from.

§ 343. **Inspection of public buildings.**— The health officer has authority and it is his duty to make inspection, and to advise as to the proper heating, ventilation and drainage of public buildings under the control of the city, or any of its departments, boards or officers; and in case any such building is in use or in process of erection, without in the opinion of the health officer, proper arrangements for heating, ventilation or drainage, he has power, subject to the right of appeal herein provided, to stop the use or the erection of such building, to direct such arrangements to be made, and to restrain further work upon the building until they are made.

§ 344. **Approval of plans for sewers and drains.**— All plans for sewers and drains must be submitted to the health officer for his approval before contracts are let for the construction of the same, and in case he disapproves the same, such sewers and drains must not be constructed unless on appeal to the commissioner he approves the same. The health officer has power subject to the right of appeal herein provided, to stop the construction or use of drains and sewers which are not properly constructed or properly used, or which are not in accordance with the plans previously approved and adopted.

§ 345. **Health districts.**— The commissioner must divide the city into not more than twelve districts, to be known as "health districts," and may alter the same from time to time; and he must file with the city clerk a written designation of such districts and of any alteration thereof.

§ 346. **City physicians.**— The commissioner has power to appoint to hold office during his pleasure, a city physician for each of the health districts, and they must perform such duties as the commissioner may direct or prescribe. The deputy health officer and city physicians must render medical assistance to indigent sick persons under the direction of the health officer and of the commissioner of charities. This section does not apply to almshouses, hospitals or other public institutions which are provided with a regularly appointed medical and surgical staff.

§ 347. **Actions to restrain nuisances.**— Actions may be maintained by the city in courts of competent jurisdiction to restrain the threatened performance of any act contrary to orders, directions or decisions of the commissioner of public safety, and to restrain and abate nuisances.

§ 348. **Duty in case of peril to public health.**— In case of great and imminent peril to the public health of the city by reason of impending pestilence, it is the duty of the commissioner with the sanction of the common council if it be practicable to convene that body for prompt action, or if not, when approved by the board of estimate and apportionment, to take such measures and

do, order or cause to be done such acts, and to make such extraordinary expenditures in excess of the sum appropriated to the bureau of health for the preservation and protection of the public health as he may deem necessary and proper. Such peril to public health is deemed to exist only when and for such period as the commissioner and the board of estimate and apportionment by unanimous vote determine.

§ 349. **Public health law applicable.**— The public health law, as now or hereafter existing, so far as it pertains to cities, is applicable to the city of Rochester except as herein expressly modified.

§ 350. **Bureau of buildings.**— The bureau of buildings is in the department of public safety, and the chief officer thereof is the fire marshal, and he has power, with the approval of the commissioner, to appoint to hold office during his pleasure such subordinates as may be prescribed by the board of estimate and apportionment.

§ 351. **Powers and duties of fire marshal.**— The fire marshal, under the direction and control of the commissioner, has the government and management of the bureau of buildings, and has power to enter into and examine all dwellings, houses, buildings, tenements and factories of every description, and all lots, yards and enclosures; and it is his duty to see that the laws of the state and ordinances of the common council in relation thereto are complied with, and to prevent the construction, erection and alteration of structures and buildings which are being constructed, erected or altered contrary to law or ordinance; and he must perform such other duties as may be imposed upon him by the commissioner, or by ordinance of the common council, or by law.

§ 352. **Powers may be delegated.**— The commissioner of public safety may, from time to time, delegate the power of entry and examination conferred upon the fire marshal by the preceding section, to any officer or member of the police or fire force, and all subordinates of the fire marshal possess such power of entry and examination.

ARTICLE XIII.

Department of Charities.

Section 363. Commissioner of charities.
364. Powers and duties of commissioner.
365. Certificates to maintain sick persons at institutions.
366. Powers and duties of overseer of the poor.
367. Power to administer oath.
368. City the owner of supplies.
369. Children not to be bound except by order of court or magistrate.
370. Liability of city limited.

Section 363. **Commissioner of charities.**— The commissioner of charities is the head of the department of charities, and may appoint to hold office during his pleasure, a deputy, an overseer of the poor, and such other subordinates as may be prescribed by the board of estimate and apportionment.

§ 364. **Powers and duties of commissioner.**— The commissioner has the supervision of the expenditures of the money of the city for the support or relief of the poor, and he must make regulations for such expenditures. He must furnish to the mayor a daily report of the aid and relief granted by him, with the names and addresses of all recipients; and he has such other powers and duties not inconsistent with the provisions of this act or the other laws of the state, as may be prescribed by the ordinances of the common council.

§ 365. **Certificates to maintain sick persons at institutions.**— No sick person, except one having or suspected of having a contagious disease, may be maintained at any institution at the expense of the city, unless the commissioner certifies that such person is an indigent person and is a proper city charge.

§ 366. **Powers and duties of overseer of the poor.**— The overseer of the poor may, with the approval of the commissioner, appoint to hold office during his pleasure such subordinates as

may be prescribed by the board of estimate and apportionment, and possesses, subject to the regulations and supervision of the commissioner, all the powers and authority of overseers of the poor in the several towns of the county of Monroe, and is subject to the same duties, obligations and liabilities.

§ 367. **Power to administer oath.**— The commissioner, the deputy, the overseer of the poor and all subordinates appointed by the commissioner and overseer of the poor, have the power to examine under oath any person applying for relief.

§ 368. **City the owner of supplies.**— The city continues to be the owner of all articles or supplies furnished to any poor person or applicant until the same are consumed. If any person to whom the same are furnished, sells or exchanges the same for money or intoxicating liquor, or in any way disposes of the same other than in the manner directed, he is guilty of a misdemeanor.

§ 369. **Children not to be bound except by order of court or magistrate.**— No child in the city of Rochester under sixteen years of age may be bound out by the commissioner of charities, or the overseer of the poor of the city, or any corporation authorized by law to bind out children, except upon order of some court or magistrate of competent jurisdiction.

§ 370. **Liability of city limited.**—Nothing in this act contained shall be construed to make the city liable for the support or relief of any poor person, when it is not otherwise so liable.

ARTICLE XIV.

Department of Public Instruction.

Section 381. Board of education.
382. General duties.
383. Specific duties.
384. Power to fix salaries.
385. Annual report to state superintendent.
386. Publication of proceedings.
387. Annual report to common council.

Section 388. Board to estimate the number of pupils enrolled.
389. Contracts for work and supplies.
390. Emergency repairs.
391. Contracts for construction of school buildings exceeding one year.
392. Custody of libraries.
393. Duties of secretary.
394. Qualifications of superintendent.
395. Powers and duties of superintendent.
396. Powers of principals.
397. Duties of supervising architect.
398. Qualifications of examiner.
399. Board of examiners.
400. Qualifications of principals and teachers.
401. Permanent appointment of principals and teachers.
402. Suspension and removal of officers and employees.
403. Common council may direct sale of school property.
404. Public schools free.
405. Teachers' retirement fund.

Section 381. **Board of education.**— The head of the department of public instruction is the board of education, composed of the commissioners of schools. The board must meet on the first Monday of each and every month and at such other times as it may appoint, and must at its first regular meeting in January of each year elect one of its members president. Special meetings may be called by the secretary upon order of the president or on request of a majority of the board.

§ 382. **General duties.**— The board establishes, controls, maintains and provides for the public schools, the public school system, and the general educational interests of the city, and manages and controls the property, real and personal, which belongs to the city and is used for the purposes of education, subject only to the general statutes of the state relating to public schools and public school instruction and to the provisions of this act.

§ 383. **Specific duties.**— The board has power:

1. Establishment of schools.— To establish, control and maintain kindergartens, common schools, high schools, manual training and industrial schools, evening schools, including provision for special studies and social improvement, vacation schools, training schools for teachers, and truant schools; to discontinue or consolidate schools; and to supervise, maintain and equip playgrounds established by the common council.

2. Changing grades and courses of study.— To change the grades of any or all schools, and to adopt and modify courses of study therefor.

3. Fixing qualifications of teachers.— To license teachers for the schools of the city, and to fix a standard of qualification as a necessary requirement for the service of all principals and teachers in the schools of the city, which requirement may be higher but not lower than the minimum qualifications required by the laws of the state and the provisions of this act.

4. Purchase of school property and supplies.— As herein provided, to purchase, lease or improve sites for school houses; to build, purchase, lease, enlarge, improve, alter and repair school houses and appurtenances; to purchase, improve, exchange and repair schools, apparatus, books, furniture and appendages; and in general to provide for all the requirements of the schools under its control.

5. Appointment of officers and employees.— To appoint as herein provided:

(a) A secretary of the board to serve during its pleasure.

(b) A superintendent of public schools, whose term of office is four years.

(c) Two examiners to serve during the pleasure of the board.

(d) A supervising architect of experience and good standing in his profession, to serve during the pleasure of the board.

(e) All school principals and teachers.

(f) All janitors and truant officers, subject, however, to the restrictions imposed by the general laws of the state.

(g) Such other officers and employees as it may deem necessary for the proper discharge of its administrative duties.

6. Vacancies.— To fill for the unexpired term any vacancies which may occur in the offices or positions in this section provided for.

7. Non-resident pupils.— To allow the children of persons not residents of the city to attend the schools under the care and control of the board, upon the payment of such tuition and upon such terms as the board may by resolution prescribe. Permission may be granted by resolution of the board to attend public school number one without payment of tuition, to children residing in what is known as school district number two of the town of Brighton, upon lands heretofore charged with any portion of the cost of the construction of the school building now occupied and used by the city of Rochester, and known as school number one, within the following described limits: Commencing at the southeast corner of the limits of the city of Rochester, and thence southerly on a straight line continued on the easterly line of the city, to the southerly boundary of said district number two; thence westerly along the south line of said district to the boundary of the city.

8. Adoption of rules.— To adopt rules and regulations for the proper transaction of its business; for defining the duties of its officers and employees, and for the proper execution of all powers vested in and duties imposed upon it by law.

§ 384. **Power to fix salaries.**— The board of education may fix within the proper appropriation of money therefor, the salaries and compensation of all officers and employees appointed by it.

§ 385. **Annual report to state superintendent.**— The board must between the first day of August and the thirtieth day of September of each year, transmit to the state superintendent of public instruction, a report in writing for the state school year ending on the next preceding thirty-first day of July, in such form and stating such facts as the state superintendent and school laws of the state may require.

§ 386. **Publication of proceedings.**— It is the duty of the board

to cause to be published in one of the official papers a report of the final proceedings of each meeting of the board.

§ 387. **Annual report to the common council.**— It is the duty of the board to prepare and transmit to the common council within ten days preceding the close of the fiscal year, correct statements of the receipts and disbursements of money during such fiscal year, in which account must be stated under appropriate heads:

1. The moneys raised by the common council under the provisions of this act.

2. The school moneys received by the city treasurer from the county treasurer or the state.

3. All other moneys received by the city treasurer, subject to the order of the board, specifying the same and the sources thereof.

4. The manner in which such sums of money have been expended, specifying the amount paid under each head of expenditure, and whether any part of any such fund remains unexpended.

5. Whether any and what claims or bills against the department, or obligations incurred by said department, remain unpaid.

6. A full account of the condition of the teachers' retirement fund, its amount, the manner of its investment, and all receipts and disbursements on account of said fund during the year.

§ 388. **Board to estimate the number of pupils enrolled.**— The board must, on or before the fifteenth day of January in each year, report to the board of estimate and apportionment the total number of persons registered as pupils in the public schools of the city during the preceding year.

§ 389. **Contracts for work and supplies.**— Whenever the board intends to cause any work to be performed or to purchase any supplies at an estimated expense of not less than fifty or more than two hundred and fifty dollars, it is the duty of the officials having jurisdiction thereof to procure estimates of such work or supplies from two or more competitors, whenever practicable, and report such estimate to the board for its consideration and action. Whenever the estimated expense of such work or supplies

exceeds two hundred and fifty dollars, the board must proceed as follows:

(a) A resolution providing for the doing of the work, or the purchasing of supplies, must be entered by the clerk in full in the minutes of the board. Bids must be called for by publication in the official papers at least twice in each week for two weeks.

(b) Bids duly sealed must be filed with the clerk by twelve o'clock noon of the last day, as stated in the advertisement.

(c) Bids must be opened at the next meeting of the board and publicly read by the clerk.

(d) Each bid, if it relates to both labor and materials, must state each separately, with the price thereof, and must contain the name of every person, firm or corporation interested in the same; and must be accompanied by a sufficient guarantee of some disinterested person that if the bid is accepted a contract will be entered into and the performance of it properly secured by bonds duly approved.

(e) The board may, in its discretion, accept any bid which is most advantageous to the city and thereupon cause a contract therefor to be executed in the name of the city by the president of the board; or it may reject any or all bids, as the interests of the city require.

§ 390. **Emergency repairs.**— In case of emergency requiring the closing of a school building unless immediate repairs thereto are made, the board may cause repairs thereto to be made without a contract therefor, or may let a contract therefor without advertising and receiving bids, upon filing with the comptroller a certificate approved by the mayor showing such emergency and the necessity of repairs.

§ 391. **Contracts for construction of school buildings exceeding one year.**— The board may let contracts for the construction of school buildings in which it is agreed that the contract price is payable from the moneys appropriated for the department of public instruction or otherwise lawfully added thereto for the fiscal year in which the contracts are let and for the fiscal year

following, provided that the total amount contracted to be paid from the moneys for the fiscal year following the letting of contracts must not exceed one hundred thousand dollars.

§ 392. **Custody of libraries.**— The board is the trustee of the school library or libraries in the city, and all the provisions of the law now or hereafter passed relative to public school libraries apply to the board. It is vested with the same discretion as to the disposition of all moneys appropriated by any law of the state for the purchase of libraries which is therein conferred upon the inhabitants of the school districts. It is the duty of the board to provide for the safekeeping of the library or libraries.

§ 393. **Duties of secretary.**— The secretary has charge of the rooms, books, papers and documents of the board, except such as pertain to the office and duties of the superintendent. He must perform such duties as may be required of him by the board, its committees or members. He has the right to administer oaths and take acknowledgments, but without fee. He is the clerk of the board, and must keep or cause to be kept a record of the proceedings thereof. He must also keep or cause to be kept a set of records, showing the receipts and expenditures of the board. Said expenditures must be subdivided so as to show the cost of maintaining each school separately and the supplies used therein. He must also keep or cause to be kept a series of receipts, to be signed by either the principals or janitors, certifying to all repairs and improvements made and all supplies received for the respective school buildings and premises. The printed record of the board, or a transcript thereof, certified by the president, or secretary, is presumptive evidence of all the facts therein set forth, and such records, and all the books, accounts, vouchers and papers of the board must at all times be subject to the inspection of the common council and of any committee thereof.

§ 394. **Qualifications of superintendent.**— No person is eligible to be appointed as superintendent, unless he is a graduate of a college or university recognized by the regents of the state of

New York, and has had at least ten years' successful experience as a practical educator.

§ 395. **Powers and duties of superintendent.**— The superintendent has power, and it is his duty to enforce the laws of the state applicable to the public schools of the city and all the rules and regulations of the board, except as herein provided. He must visit the schools of the city as often as he can consistently with his other duties, and inquire into the character of the instruction, management and discipline, and advise and encourage the officers, teachers and pupils thereof. He must prescribe, subject to the rules of the board and the provisions herein, suitable registers, blanks, forms and regulations for making all reports and for conducting all necessary business connected with the school system, and he must cause the same, with such information and instructions as he deems conducive to the proper organization and government of the schools to be transmitted to the persons entrusted with the execution of the same. He must report to the board from time to time, as he may be required or deem necessary, a statement of the condition of the schools and all such matters relating to his office, and such plans and suggestions for the improvement of the schools and for the advancement of public instruction in the city, as he may deem expedient. He must recommend the number of teachers necessary for each of the several schools. He may, whenever occasion requires, and unless otherwise directed by the board, appoint supply teachers and assign them to duty, and he may temporarily transfer principals, teachers and pupils from one school to another. It is his duty to maintain proper discipline in the management and conduct of the schools, and he may in his discretion suspend or expel any pupil guilty of misconduct or insubordination, and may suspend for cause any teacher, principal or employee. He must immediately report such suspension to the board. It is his duty to report to the board inefficiency on the part of principals, teachers and employees. He must nominate an assistant superintendent, special

teachers and supervisors. He must enforce the compulsory education law and direct truant officers in the discharge of their duties.

§ 396. **Powers of principals.**— A principal under the general supervision of the superintendent, has the direction of the school over which he is placed, and the assignment of teachers to their respective grades in the school, and he must direct them as to methods of instruction and discipline. He may suspend any teacher for a definite time for inefficiency or insubordination, and he must immediately report such suspension and the reasons therefor to the superintendent.

§ 397. **Duties of supervising architect.**— It is the duty of the supervising architect, subject to the rules and regulations of the board, to inspect school buildings, prepare plans and specifications for new buildings, annexes and repairs, and to supervise the construction and making thereof.

§ 398. **Qualifications of examiner.**— No person is eligible to be appointed as examiner, unless he is a graduate of a college or university recognized by the regents of the state of New York, and has had at least five years' successful experience in teaching since graduation, or unless he has a state certificate and has had at least ten years' successful experience in teaching since obtaining such certificate. No principal or teacher in the public schools of the city is eligible to appointment as examiner.

§ 399. **Board of examiners.**— The board of examiners consists of the superintendent and two examiners, and it is its duty to examine all applicants for positions as principals or teachers in the public schools of the city, and to prepare an eligible list of such applicants as they may deem qualified, classified as to position and graded according to scholarship, character and general fitness. The board of examiners must hold such examinations as the superintendent may prescribe, and must prepare the eligible list. The superintendent must report the eligible list to the board of education, and must also subscribe the same into a book, which is open to public inspection. Any name placed upon the eligible list is entitled to remain thereon without further examination

for the period of two years, after which the name is dropped from the list unless otherwise determined by the board of examiners.

§ 400. **Qualifications of principals and teachers.**— The superintendent must nominate principals for each school from the first ten names certified by the board of examiners as qualified for principalship. No person must be appointed to the position of principal of high school or grammar school, or to the position of teacher of a high school, who has not had two years' successful experience as a teacher, and who does not possess one of the following qualifications: (a) Completion of a four years' course in a college or high school recognized by the regents of the state of New York. (b) Completion of a four years' course in a normal school recognized by the state department of public instruction. (c) Holder of a life certificate of the state of New York granted upon examination. The superintendent and principal of a school constitute a board for the nomination of teachers for such school from the first twenty-five names on the eligible list for teachers, but no person may be appointed as teacher in a grammar school or kindergarten who is not a graduate of a normal school after a course of study therein of at least two years, or has not pursued a course in pedagogy in a state training school or city training school for one year; except that any graduate of the normal course of the Rochester athenaeum and mechanics' institute after a course of study therein of at least two years may be appointed as teacher of manual training, domestic science, domestic art, or any of the special subjects comprised in the normal course of said institute. The board of education must consider such nomination, and upon approval appoint the person so nominated. But any principal or teacher in the employ of the board of education at the time of the passage of this act is exempt from the conditions as to qualifications or eligibility imposed by this act. Any principal or teacher who has been appointed is eligible to reappointment without examination or certification by the board of examiners.

§ 401. **Permanent appointment of principals and teachers.**— Any principal or teacher who has been appointed to the same school for three successive years may, upon the recommendation of the superintendent, be promoted by the board to permanent service in such school during good behavior, and thereafter they may be suspended or removed as herein provided only for cause and after a hearing.

§ 402. **Suspension and removal of officers and employees.**— The board may suspend any principal or teacher for a definite time, and may for cause remove any officer, principal, teacher or employee; provided, however, that no officer, principal or teacher may be removed until opportunity for a hearing at a meeting of the board has been given. All suspensions by principals are subject to review by the superintendent, and suspensions by the superintendent are subject to review by the board. Any person suspended is not entitled to salary for time of suspension, unless such suspension is revoked by superior authority. This section does not limit the power of removal of any person holding during the pleasure of the board, and does not require any hearing to be had upon a failure to reappoint after the expiration of a term.

§ 403. **Common council may direct sale of school property.**— Upon recommendation of the board of education, the sale of schoolhouses, lots or sites, or any other school property, may be authorized by ordinance of the common council as herein provided in relation to other sales of real property. The proceeds of such sale must be paid to the treasurer to the credit of the funds of the department of public instruction.

§ 404. **Public schools free.**— The public schools are free to all children between the ages of five and twenty-one years residing in the city, and the evening schools are free to all persons over five years of age residing in the city.

§ 405. **Teachers' retirement fund.**—

1. Trustees.— The commissioners of schools, the superintendent of schools, one principal and one teacher of the public

schools, constitute a board of trustees of the teachers' retirement fund. In September of every odd numbered year, a meeting of all the principals and teachers of the public schools must be called by the superintendent, at which one principal and one teacher then in active service shall be chosen to serve for a term of two years on the board of trustees.

2. Sources of fund.— The teachers' retirement fund, in addition to the moneys therein, consists of:

(a) All donations, legacies and gifts made to said fund.

(b) Two per centum of the annual salaries respectively paid to the superintendent of schools, supervisors, principals and teachers regularly employed in the public schools of the city, to be deducted by the city treasurer in two semi-annual installments and credited to the retirement fund; except that no deductions are to be made from the salaries of the superintendent and supervisors now in office who have not become qualified to participate in the benefits of the retirement fund; or from the salaries of superintendents and supervisors hereafter appointed who do not within one month after appointment give notice in writing to the board of trustees of his or her desire to participate in the benefits of the retirement fund.

(c) An amount to be paid each year from the funds appropriated by the city of Rochester for the department of public instruction, equal to one-half the total sum deducted from the salaries of the superintendent, supervisors, principals and teachers for that year. The amount thereof must be deducted by the city treasurer in two semi-annual installments and credited to the retirement fund.

(d) All moneys which may be obtained from other sources or by other means duly and legally devised for the increase of the retirement fund by the board of trustees or with their consent.

3. Payments from fund.— No moneys may be paid from the teachers' retirement fund, until the amount and payment thereof has been approved by a vote of the board of trustees.

4. Retirement on pensions.—

(a) In case the board of education retires from service or refuses to reappoint to service any supervisor, principal or teacher who has served in such capacity or capacities for an aggregate period of twenty years if a female, and twenty-five years if a male, the person so retired or refused reappointment thereupon becomes an annuitant under the retirement fund, provided that not less than fifteen years of such service have been performed in the public schools of Rochester, and in case of a superintendent or supervisor that he or she has become entitled to the benefits of the retirement fund.

(b) Any superintendent, supervisor, principal or teacher who has served in such capacity or capacities for a period of thirty years if a female, or thirty-five years if a male, may, with the consent of the board of education retire from service and become an annuitant under the retirement fund, provided that not less than fifteen years of such service have been performed in the public schools of Rochester, and in case of a superintendent or supervisor that he or she has become entitled to the benefits of the retirement fund.

(c) Amount of annuity.— An annuity paid from the teachers' retirement fund is one-half the amount of the annual salary of the annuitant at the time of retirement from service, not exceeding, however, eight hundred dollars. But if the moneys in the retirement fund are at any time inadequate to fully pay all annuities payable therefrom, the board of trustees may then direct the payment to the persons entitled to participate in said fund as near a pro rata amount as in their judgment the circumstances will warrant.

5. Amount of contribution.— No person may become an annuitant who has not contributed to the teachers' retirement fund an amount equal to at least forty per centum of his or her annual salary at the time of retirement, but any person otherwise qualified may become an annuitant by making a cash payment to the retire-

ment fund of such an amount as his or her contributions may have fallen short of the required forty per centum.

6. Refund of contributions.— If at any time a superintendent, supervisor, principal or teacher who is willing to continue service in the public schools of the city is not re-employed or is discharged before the time when he or she would be entitled to an annuity, then there must be paid back to such person, without interest, all the money which may have been deducted from his or her salary for the retirement fund.

ARTICLE XV.

Department of Law.

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Section 416. **Corporation counsel.**— The corporation counsel is the head of the department of law, and has power to appoint to hold office during his pleasure, an assistant, who has all the powers and duties of a deputy, and such other subordinates as may be prescribed by the board of estimate and apportionment, and they must discharge such duties pertaining to their offices as he may direct.

§ 417. **Powers and duties of corporation counsel.**— The corporation counsel is the legal adviser of all the departments, boards,

bureaus and officers of the city, and he must appear for and protect the rights and interests of the city in all actions, suits and proceedings brought by and against it, or by or against any department, board, bureau or officer; and the departments, boards, bureaus and officers must not employ other counsel; and he must attend to all the law business of the city, and discharge such other duties as may be prescribed by ordinance of the common council.

§ 418. **Duty to commence actions.**— The corporation counsel must, when directed by either the mayor or by ordinance of the common council, commence an action or proceeding in the name of the city, or the necessary and proper department, board, bureau or officer.

§ 419. **Appeals.**— In an action or proceeding brought by or against the city, or by or against any department, board, bureau or officer thereof, the corporation counsel may when he deems it for the best interests of the city, appeal from any order, decision or judgment therein.

§ 420. **Approval of contracts.**— No written contract providing for the payment of two hundred and fifty dollars, or more, entered into by the city, may be acted upon until there is endorsed thereon by the corporation counsel or his assistant, a certificate to the effect that the officer who executed the same on behalf of the city had authority and power to make such contract, and that such contract is in proper form and properly executed.

§ 421. **Costs and allowances of corporation counsel.**— The corporation counsel is entitled in actions and proceedings in which the city is successful, to receive to his own use all costs and allowances collected from the adverse party, but he must repay to the city treasurer all amounts disbursed in the progress of such actions or proceedings which are taxable as disbursements therein, and which have been paid by the city treasurer, whenever and as soon as such amounts are collected.

§ 422. **Money collected to be paid to treasurer.**— The corporation counsel must pay over at once to the city treasurer all moneys

collected by him for or on behalf of the city, including fines and penalties.

§ 423. **Compromise of claims.**— The corporation counsel has power whenever he considers it for the best interests of the city, to enter into an agreement in writing, subject to approval by the board of estimate and apportionment, to compromise and settle any claim against the city, which agreement must be reported to the common council at its next meeting, and constitutes a valid claim against the city; and the amount therein provided to be paid must, with interest thereon at six per centum from the date of approval, be included in the next annual estimate, and when raised by tax be paid to the claimant. If, however, before the levy and collection of the city taxes, there is received by the city treasurer from any source any moneys not otherwise appropriated, the money in the agreement provided to be paid may be paid out of such moneys so received so far as they will satisfy the same.

§ 424. **Employment of counsel.**— The corporation counsel, with the written consent of the mayor, may employ counsel at a compensation fixed by the board of estimate and apportionment, to assist him in the argument and conduct of important cases or proceedings in which the city, or its departments, boards, bureaus or officers, is a party or interested.

§ 425. **Payment of judgments.**— The amount of any judgment recovered against the city, or any department, board, bureau or officer thereof, payable by the city, in case no appeal is intended to be taken, or in case such judgment is finally affirmed on an appeal taken, must be reported to the common council by the corporation counsel, and the amount thereof must be raised in the next annual levy of taxes. Such judgments must be paid out of the first moneys paid into the city treasury on account of such levy, in the order of their recovery. Until the money so raised is paid into the treasury, and payment of judgment refused, no execution may issue against the city or against any department, board, bureau or officer thereof on a judgment payable by the city, unless the amount of such judgment has

not been included in the tax levy; provided, nevertheless, if there are any moneys in the treasury not otherwise appropriated, such moneys may be applied to the payment of the judgments.

§ 426. **Actions to recover taxes.**— All annual taxes levied upon account of personal property including interest, penalties and fees thereupon to the date of judgment or final order, at the rates hereinbefore provided in this charter, must be collected in the name of the city by the corporation counsel, after the first day of January following the date of the delivery to the city treasurer of the tax rolls containing the same, by actions or supplementary proceedings. Such actions may be commenced in the municipal court, in the Monroe county court or in the supreme court, in the same manner as other civil actions are commenced in said respective courts, and the provisions of the code of civil procedure and the laws and statutes relating to the conduct and prosecution of actions and to practice and procedure in the respective said courts apply to such actions. Supplementary proceedings to collect such taxes must be commenced by the presentation to the county judge or special county judge of Monroe county of an affidavit made by an officer of the city of Rochester stating that a tax has been levied against a person, firm, estate or corporation named therein, and that the same is due and remains unpaid, and thereupon an order may be granted requiring such person, firm, estate or corporation to appear before such county judge or special county judge, or before a referee named in such order and answer concerning his, their or its property, and thereafter the same proceedings are had in all respects as in cases of proceedings supplementary to an execution against property as provided by the code of civil procedure, and the provisions thereof thereafter apply to such supplementary proceedings.

§ 427. **Notice of foreclosure.**— When annual taxes upon real estate remain unpaid for one year from the first day of January following the delivery to the city treasurer of the tax rolls containing the same, the corporation counsel must give notice to the respective owners of the premises taxed that he intends to

commence actions to foreclose the liens of such taxes, unless the respective taxes are paid within two weeks from the date of the service of the respective notices; and the fees for serving such notices not exceeding one dollar for each person served must be added to and collected as a part of said taxes. Such notice may be served on the owner of the land taxed, if he live in Rochester, personally or by leaving at his residence; if he do not live in Rochester, personally or by mailing the same to him in a securely closed envelope directed to him at his last known place of residence; if he is unknown, or if his place of residence cannot be ascertained, by leaving the same with any occupant of the premises, and if the premises be unoccupied, by posting the same in a conspicuous place thereon. The service of such notice is not a condition precedent to the right to maintain the foreclosure action hereinafter provided for, and the failure to serve the same is not a defense to such action.

§ 428. **Foreclosure of tax liens.**— When annual taxes upon real estate remain unpaid after the expiration of one year from the first day of January following the delivery to the city treasurer of the tax rolls containing the same, the liens created by the levying of the taxes by the common council, together with interest, fees and penalties thereon to the date of judgment, at the rates provided in this charter, must be foreclosed in a court of record in the name of the city by the corporation counsel, in the same manner as is provided for the foreclosure of mortgages, and the provisions of the code of civil procedure, and of the rules of practice and the law and practice of this state relating to the foreclosure of mortgages, and the provisions of the code of civil procedure relating to the service of process, the commencement and conduct of actions, the jurisdiction, procedure and practice of courts, and award of costs, apply to said actions for the foreclosure of tax liens. A conveyance upon a sale made pursuant to a final judgment in an action to foreclose the lien of a tax vests in the purchaser all the right, title and interest and equity of redemption in and to said premises so sold of all

the parties to said action, and of all parties claiming under them, or any of them, whose conveyance or incumbrance is executed or recorded subsequent to the filing of the notice of pendency of action. Separate taxes against the same lot or parcel of land may be foreclosed in one action, and where several lots or parcels of land are owned by the same person or persons, corporation or corporations, separate tax liens upon separate lots and parcels of land so owned may, at the option of the corporation counsel, be foreclosed in one action. All annual taxes, local assessments and water rates due the city of Rochester, and which are a lien upon the lands sold shall be satisfied from the proceeds of the sale of said lands as far as possible, and judgment for the deficiency, if any, of all annual taxes, local assessments and water rates due the city of Rochester, and which are a lien upon the lands sold, must be granted against any defendant or defendants in said actions personally liable therefor; and the final judgments in such actions may direct the cancellation or satisfaction of record of any lien or liens of any party or parties to the action. The corporation counsel may bid for and purchase in the name of the city, upon sales under judgments in actions to foreclose tax liens.

§ 429. **Actions and proceedings to collect taxes upon real estate.**— The corporation counsel may also collect annual taxes upon real estate, including all items added thereto, in whole or in part unpaid, by supplementary proceedings, or by actions against the persons or corporations personally liable therefor as herein provided for the collection of taxes upon account of personal property.

§ 430. **Other remedies to collect taxes not affected.**— The actions to enforce personal liability, the supplementary proceedings and the foreclosure actions herein provided for, are in addition to the other methods provided for the collection of taxes in the city of Rochester and not dependent upon them or any of them or any step thereof.

§ 431. **Collection of taxes heretofore levied.**— All annual

taxes, local assessments and water rates heretofore taxed, assessed or charged by the city of Rochester, or by its officers, may be collected in the name of the city by the corporation counsel, by action to enforce personal liability, supplementary proceedings or foreclosure of tax liens, as provided herein for the collection of taxes, and such methods are in addition to other methods provided for the collection of taxes, assessments and water rates, and not dependent upon them or any of them; and in such actions, supplementary proceedings and foreclosures all items inserted in the annual tax rolls must be collected as a part of the annual taxes upon the same property against which such items were inserted, with interest, penalties and fees, the same as upon the annual taxes. No action, supplementary proceeding or foreclosure action may be commenced to collect taxes heretofore levied until after the expiration of nine months, in the case of taxes upon account of personal property, and one year in the case of taxes upon real estate, from the date of the delivery to the city treasurer of the rolls containing the same.

§ 432. **Actions now pending for the foreclosure of tax liens.**— Actions now pending for the foreclosure of tax liens or equities of redemption upon a mayor's certificate may be prosecuted to final judgment and sale under the statutes and laws in force when such actions were commenced; and the equities of redemption in all cases where mayor's certificates have heretofore been filed and actions to foreclose equities of redemption have not been commenced, may at the option of the corporation counsel be foreclosed under the statutes and laws in force at the time of the filing of the mayor's certificates.

§ 433. **Taxes to have preference in payment over all other claims.**— All annual taxes, local assessments and water rates, which are now or which hereafter may become due and payable to the city of Rochester, must be preferred to all other liens and claims in the distribution of the proceeds of the sale of real or personal property made pursuant to an order of any court or judge, and in the distribution of assets, funds or other property,

by or pursuant to an order of any court or judge, or by an assignee, receiver, executor, administrator, trustee or any officer appointed by a court or judge. No decree of judicial settlement shall be made by the surrogate's court of Monroe county, without an affidavit that no annual taxes, local assessments or water rates are due or owing the city of Rochester from the deceased person, his representative or estate, unless the city of Rochester has appeared by its corporation counsel in such proceeding for judicial settlement; and in proper cases it is the duty of said surrogate's court to direct that the city of Rochester be made a party to any proceeding for judicial settlement.

§ 434. **Statute of limitations not a defense.**— In any action or proceeding to which the city of Rochester, or any of its officers, is a party, and in which it is claimed that annual taxes, local assessments or water rates heretofore or hereafter taxed, assessed or charged, are due or owing the city, or in which it is sought to collect the same, the statute of limitations is not a bar or defense to the right of the city or its officers to recover or offset such taxes, assessments or water rates.

§ 435. **Limitation of right to attack sales under tax foreclosure.**— An action cannot be maintained to recover real estate heretofore or hereafter sold under a judgment in an action brought by the city of Rochester to foreclose the lien of a tax, or to foreclose the equity of redemption remaining after the sale of a tax, and the filing of a mayor's certificate thereon, or to recover any right, title, interest or equity of redemption in or to real estate so sold, unless the action therefor is commenced within one year after the entry of judgment of foreclosure and sale in case of sales hereafter had, and within one year from the time this act takes effect in case of sales heretofore had. The limitations herein provided apply to and bar non-resident persons, persons temporarily absent from the state, minors, insane persons, persons in prison, and all other persons and corporations whether under disability or not.

§ 436. **Filing of map preliminary to condemnation proceed-**

ings.— Whenever the common council has passed an ordinance for the purchase of real estate, rights or easements, and the commissioner of public works reports that he is unable to acquire such real estate, rights or easements at a price approved by the board of estimate and apportionment, or when in the case of real estate, rights, or easements for school purposes, the common council after notification by the board of education of its inability to purchase such real estate, rights or easements, has directed the corporation counsel to institute condemnation proceedings for the acquirement of the same, the corporation counsel must cause to be filed in the office of the city clerk and the county clerk of the county in which the real estate, rights or easements are situate, a copy of the ordinance and a map of the real estate, rights or easements sought to be taken.

§ 437. **Application for appointment of commissioners.**— The corporation counsel must, after the filing of the map, cause to be published for ten days in one of the official papers, a notice specifying the real estate, or rights or easements therein to be acquired, and stating that an application will be made to the county court of the county of Monroe, or to the supreme court, at a special term thereof held in the judicial district in which the real estate, rights or easements sought to be taken are situate, at a time specified in the notice, for the appointment of commissioners to ascertain and determine the compensation which ought justly to be made by the city to the owners of the real estate, rights or easements sought to be taken, and to persons having any estate, interest or easement therein or any lien, charge or incumbrance thereon. The corporation counsel must also, at least ten days before the time named for such application, cause a notice to be served on each of the owners of the real estate or rights or easements therein sought to be taken, and upon each person having any estate, interest or easement therein or any lien, charge or incumbrance thereon, either personally or by leaving the same at their several places of residence, and in case no person can be found at the time of making the service at such place of residence,

then such notice may be served by posting the same in a conspicuous place at such place of residence; if any person to be served is a non-resident of the state, the notice may be served by mailing it to him at his last known place of residence; and in case the residence of any person to be served cannot be ascertained, the notice may be served by leaving the same at the residence of the occupant of the premises sought to be taken, and if there is no occupant, by posting the same in a conspicuous place upon the premises sought to be taken.

§ 438. **Appointment of commissioners.**— At the time in such notice specified, or the time to which the application may be adjourned, the court, upon filing proof by affidavit of the publication and service of such notice, and upon hearing the city and all persons interested who appear, may appoint three commissioners of appraisal who are residents and freeholders of the city if the real estate, rights or easements sought to be taken are situate in the city, and if situate without the city, who are freeholders of the judicial district in which the real estate, rights or easements sought to be taken are situate and at least one of whom is a resident and freeholder of the city, not interested in any of the real estate, rights or easements sought to be taken nor of kin to any owner thereof or to any person having any estate, right or interest therein or lien, charge or incumbrance thereon. The court has power at any time to amend any defect or informality in any of the special proceedings authorized by this act, including the map and notice aforesaid, as may be necessary or proper; or to cause new parties to be served with notice, and to direct the manner of service thereof as it deems proper, and also to appoint other commissioners in the place of any who die or refuse or neglect to serve or who are incapable of serving; and such amendment may be made at any stage of the proceedings; and to appoint a guardian ad litem for an infant who is a party to the proceeding, and if necessary, for a lunatic or habitual drunkard who is a party to the proceeding; and where the mode and manner of conducting all or any of the proceedings to the appraisal are not expressly pro-

vided for by this act, the court before whom such proceedings are pending has the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this act; and the practice in such cases shall conform, as nearly as may be, to the ordinary practice in such court; and the power of amendment is to be exercised as liberally as directed to be exercised by the code of civil procedure by such court in actions.

§ 439. **Condemnation proceedings not affected by subsequent transfers.**— When condemnation proceedings herein authorized have been commenced by the filing of the ordinance and map, no change of ownership thereafter by conveyance or other transfer, of the real estate, or right or easement, or of any interest therein, or of the subject-matter of the appraisal, shall in any manner affect such proceedings, but the same may be carried on and perfected as if no such conveyance or transfer had been made.

§ 440. **Oath of commissioners.**— The commissioners appointed must take and subscribe the constitutional oath of office.

§ 441. **Hearings before commission.**— Any of the commissioners may issue subpoenas and administer oaths to witnesses. One of them may adjourn the proceedings from time to time. They must give notice by publication in one of the official papers for at least ten days of the time and place where their first meeting is to be held. At the time appointed, or at any other time or times to which they may adjourn, they must proceed to view the real estate, rights or easements sought to be taken and hear the proofs and allegations of the parties. After the testimony is closed they must determine the compensation which ought justly to be made by the city to the respective owners of the real estate, rights or easements sought to be taken, and of the respective persons having any estate, interest or easement therein or any lien, charge or incumbrance thereon. The compensation awarded to any occupant or tenant having a leasehold interest in the real estate, rights or easements sought to be taken, must be deducted from the damages awarded to

the owner or person interested in the real estate, rights or easements to which the right of such occupant or tenant is subservient.

§ 442. **Report of commissioners.**— The commissioners must, as soon as convenient, make their report to the common council, signed by a majority of them, in which they must describe with all practical certainty the several parcels of real estate or rights or easements sought to be taken, and the names, residences and title or rights, as far as can be ascertained, of the respective owners thereof, and of the respective persons having any estate, interest or easement therein, or any lien, charge or incumbrance thereon, and the amount of compensation which ought justly to be made by the city to the respective owners of the real estate, rights or easements sought to be taken and to the respective persons having any estate, interest or easement therein or any lien, charge or incumbrance thereon; which report must be filed by the city clerk in his office, and a duplicate of such report must be recorded by the commissioners in the office of the clerk of the county in which the real estate, rights or easements sought to be taken are situate.

§ 443. **Compensation of commissioners.**— The commissioners are each entitled to the sum of three dollars for each day they are actually and necessarily engaged in the performance of their duties; but in any proceeding a larger per diem compensation may be fixed by the board of estimate and apportionment before the first meeting of the commissioners. They may also employ a clerk to take the minutes of the testimony and to keep the minutes of their proceedings, who is entitled to three dollars for each day spent by him in the performance of such duties. Any of the commissioners may act as clerk, and in that event is entitled to receive the additional compensation of clerk.

§ 444. **Confirmation of report.**— Upon receiving the report, the common council must assign a time for hearing objections to the confirmation thereof, and at the time assigned must hear the allegations of all persons interested who appear, and may take proof in relation thereto from time to time, and may confirm the

report or set it aside and refer the matter to new commissioners to be appointed as herein provided. The common council may set aside said report and abandon the condemnation proceedings at any time before confirmation thereof.

§ 445. **Possession of property and giving security.**— At any stage of the proceeding the court may authorize the city, if in possession of the real estate, rights or easements sought to be taken, to continue in possession thereof, and may stay all actions or proceedings against it on account thereof, or, if the city is not in possession, may authorize the city to take immediate possession of the real estate, rights or easements sought to be taken; upon giving such security or depositing such sum of money as the court may direct, to be held as security for the payment of the compensation which may be finally awarded. In case possession is retained or taken under this section, the condemnation proceeding cannot thereafter be abandoned.

§ 446. **Appeal from award.**— Any person aggrieved by the report or award of the commissioners may within thirty days after the confirmation by the common council, appeal therefrom to the appellate division of the supreme court, and must file in the county clerk's office, with the notice of appeal, a bond executed by two or more sureties, approved by a judge of the supreme court or the county judge of Monroe county, in the penal sum of one thousand dollars, conditioned for the diligent prosecution of the appeal and for the payment of all costs and charges which may be awarded against the appellant. All the pertinent provisions of the code of civil procedure relating to an appeal from an order, apply to an appeal taken as herein provided.

§ 447. **Power of court on appeal.**— On the hearing of an appeal the court may confirm or annul the award to any party or parties or to all of them, and may direct a re-hearing before the same or new commissioners.

§ 448. **Conflicting claims.**— If there are adverse and conflicting claimants to the money or any part of it to be paid as compensation for the real estate, rights or easements sought to be taken,

the court may direct the money to be paid into court by the city, and may determine who is entitled to the same and direct to whom the same shall be paid, and may in its discretion order a reference to ascertain the facts on which such determination and direction are to be made.

§ 449. **Award to unknown owners.**— If an award is made to any unknown person, the court may direct that the sum so awarded be paid into court to await its disposition.

§ 450. **Award to non-resident owners.**— If an award is made to any non-resident or any person whose residence or place of domicile cannot be located, or if for any reason the city is unable to pay to any person the moneys awarded to him, the court may direct that such moneys be paid into court to await its disposition.

§ 451. **Taxes to be deducted from award.**— The city, before paying any amounts awarded in condemnation proceedings, must deduct therefrom all sums due the city for annual taxes, local assessments and water rates which are liens upon the real estate, rights or easements taken; and if there is a conflict as to the specific awards from which such taxes, assessments or water rates shall be deducted, the whole amount of the awards, less the taxes, assessments and water rates, may be paid into court and the claims of the parties settled as herein provided in case of conflicting claimants.

§ 452. **When title vests in city.**— Upon the payment of the sums awarded the city becomes vested with the title to the real estate, rights or easements taken, free from any and all liens, charges and incumbrances of every kind and nature.

§ 453. **Procedure to assess damages for discontinuance or change of grade of street.**— In case of the discontinuance of a street or of the change of grade thereof, when a claim for damages has been duly filed with the commissioner of public works and the amount of damages has not been agreed upon by the commissioner of public works and approved by the board of estimate and apportionment, the corporation counsel must, within three months

from the filing of the claim, apply for the appointment of commissioners to assess the damages as provided herein in relation to the condemnation of lands; and in case he fail to do so, any person who has duly filed a claim for damages which has not been adjusted, may after the expiration of three months from the filing of the claim, make such application, upon notice to the corporation counsel, and thereupon all the pertinent provisions of this act relating to condemnation proceedings apply to such proceeding. All claims arising from the closing of one street or the change of grade of one street may be joined in one proceeding, and if separate proceedings in such cases are commenced the court may consolidate them.

§ 454. **Costs.**— Costs may be awarded to or against the city in a condemnation proceeding or proceeding to assess damages instituted under this act.

§ 455. **Application.**— The city may acquire under the condemnation proceedings herein provided, any real estate, or rights or easements therein, or any property rights in real estate, within or without the limits of the city, which it is authorized by this act to acquire.

ARTICLE XVI.

Police Court.

Section 466. Police court.
467. Judges of the municipal court to act as police justice.
468. Jurisdiction of police court.
469. Powers and jurisdiction of police justice.
470. Children's court.
471. Judicial notice of ordinances.
472. Prosecutions for violation of ordinances.
473. Removal of cases to grand jury.
474. Demand for jury trial.
475. Jury trial.
476. Power to sentence.
477. Confinement in Monroe county penitentiary.

Section 478. Police court clerk and assistants.
479. Police court attendant.
480. Probation officers.
481. Sale of unclaimed articles.
482. Stolen property.
483. Property to be held as evidence.
484. Expense of punishing offenders against the state law.

Section 466. **Police court.**— The court of criminal jurisdiction known as the police court, held by the police justice, is continued, with the jurisdiction and powers hereinafter conferred.

§ 467. **Judges of the municipal court to act as police justice.**— In the absence or inability of the police justice, or in case of a vacancy in the office thereof, either of the judges of the municipal court must perform the duties of the police justice. Either of the judges of the municipal court may issue a criminal warrant on due complaint for the arrest of any person charged with crime committed within the city. Such warrant must be signed by the judge hearing the complaint and made returnable before the police justice, or police court.

§ 468. **Jurisdiction of police court.**— The police court has in the first instance exclusive jurisdiction to try and determine all offenses of which courts of special sessions have or shall have exclusive jurisdiction, when such offenses are committed within the city, and exclusive jurisdiction to try and determine all complaints and charges for violations of city ordinances, and has the power and jurisdiction now or hereafter conferred upon courts of special sessions by section fifty-six of the code of criminal procedure; and also has exclusive jurisdiction in the first instance to try for any other misdemeanor committed in the city any person who is brought before said court charged with such offense.

§ 469. **Powers and jurisdiction of police justice.**— The police justice possesses all the powers and jurisdiction as a magistrate, which are or may be conferred by law upon justices of the peace concerning offenses committed within the city, and possesses such

other powers and must perform such other duties as are now or may be conferred or imposed upon him by law.

§ 470. **Children's court.**— All cases involving the commitment or trial of children actually or apparently under the age of sixteen years for any violation of law or ordinance, before the police justice or police court, must be heard and determined in a separate court room to be known as the children's court room, and separate and apart from the trial of other criminal cases, of which session a separate docket and record must be kept. Whenever a child actually or apparently under the age of sixteen years is taken into custody in the city of Rochester, such child must be arraigned in the children's court room and must not knowingly be taken to that part of the police court where other criminal trials are had; and if through inadvertence any child is brought before that part of the police court, as soon as the age of such child is discovered, the hearing of the case must be transferred to, and the case be heard and determined in the children's court room.

§ 471. **Judicial notice of ordinances.**— The police court and the police justice must take judicial notice of all ordinances adopted by the common council so long as the same remain in force and effect, and the necessary and proper ordinances and amendments must be made a part of any return or record to be used on appeal.

§ 472. **Prosecutions for violation of ordinances.**— A violation of an ordinance of the common council is not a crime, but the prosecution therefor is a criminal proceeding instituted in the name of the city of Rochester. Arrests for violations of ordinances may be made as is now or may hereafter be provided by law for arrests for misdemeanor, and all proceedings shall be thereafter had as is now or may hereafter be provided by law for prosecutions for misdemeanor, and upon conviction the same process must be issued and executed as upon convictions for misdemeanor, and appeals therefrom may be taken in the same manner and with the same effect as appeals from conviction for misdemeanor. No costs may be allowed to or against the city in any such proceeding

or appeal therefrom. The provisions of the code of criminal procedure relating to arrests, bail, confinement, trial, conviction and commitments for misdemeanor, and appeals from convictions therefor, and all other provisions thereof relating to misdemeanors so far as not in conflict with the provisions of this act, apply to arrests for violations of ordinances of the common council and to subsequent proceedings thereon.

§ 473. **Removal of cases to grand jury.**— Any charge of misdemeanor pending before the police court or police justice may be removed to a court sitting with the grand jury by the same method now or hereafter provided in sections fifty-seven and fifty-eight of the code of criminal procedure, but a complaint or charge for a violation of a city ordinance must not be removed.

§ 474. **Demand for jury trial.**— A defendant upon being arraigned before the police court or the police justice, and at or before the time for interposing a plea, may demand a trial by jury, and unless so demanded a trial by jury is waived.

§ 475. **Jury trial.**— Whenever a trial by jury is duly demanded, the police justice must forthwith draw in the manner prescribed by law such number of names as he deems necessary to attend as jurors for the purpose of trying the issues in such case at a time to which the case has been adjourned by him, not more than eight days from the entering of the plea therein, unless the parties consent to a longer adjournment, which consent must be entered in the minutes of the court. Thereafter, except as herein otherwise provided, and so far as consistent with this act, the provisions of sections twenty-nine hundred and ninety-three, twenty-nine hundred and ninety-four, twenty-nine hundred and ninety-five, twenty-nine hundred and ninety-six, twenty-nine hundred and ninety-seven, twenty-nine hundred and ninety-eight, twenty-nine hundred and ninety-nine, three thousand and six, three thousand and seven, three thousand and eight, and three thousand and nine of the code of civil procedure as now in force or hereafter amended, govern the further proceedings in such case. The police justice has the powers and duties con-

ferred and imposed upon justices of the peace under those sections. The venire must be issued to a police officer, who thereupon has all the powers and duties of constables under those sections of the code of civil procedure.

§ 476. **Power to sentence.**— The police court has power upon conviction for misdemeanor to impose a sentence of imprisonment not exceeding one year, or a fine not exceeding five hundred dollars, or both such fine and imprisonment, with further imprisonment if such fine is not paid not exceeding one day for each dollar thereof unpaid, except where a different punishment is by law prescribed for such offense. The police justice and the police court have power to impose or suspend sentence or to remit to probation pursuant to law.

§ 477. **Confinement in Monroe county penitentiary.**— Persons convicted by or before the police court or police justice of any crime or upon any criminal charge or in any criminal proceeding and sentenced to imprisonment or committed for failing to give the required security to keep the peace or for good behavior, or for any other purpose, must be sentenced to imprisonment in or committed to the Monroe county penitentiary, in all cases where it is provided by law that the sentence of imprisonment or the commitment shall be to a county jail, and in all cases where the place of confinement is not specified.

§ 478. **Police court clerk and assistants.**— There is a clerk of the police court, who is a confidential appointee of the police justice and who holds office during his pleasure. The clerk has power to take informations upon which warrants for the arrest of persons charged with the commission of a crime, or a violation of an ordinance, may be issued by the police justice; to issue and sign subpoenas; to administer oaths to witnesses; to make and sign executions, commitments and certificates of conviction, and to certify to and sign copies thereof for the execution of any judgments rendered by the police court or police justice; and he has power to receive deposits of money when such deposits are permitted by law to be made instead of bail or undertaking for ap-

pearance. The clerk must receive all penalties and other moneys or fees and pay the same into the city treasury once in each week, and cause monthly an itemized account of the same to be published in the official papers. The police justice may appoint to hold office during his pleasure, a deputy clerk, who has the same powers as the clerk, and such other subordinates as the board of estimate and apportionment may prescribe.

§ 479. **Police court attendant.**— The police justice may appoint to hold office during his pleasure, a court attendant, who is a confidential appointee of the police justice, and who is subject to the order and control of the police justice, and who must perform such services as he may require.

§ 480. **Probation officers.**—The police justice may appoint from time to time to serve during his pleasure and without compensation, such number of probation officers as he may deem desirable.

§ 481. **Sale of unclaimed articles.**— Upon the order of the police justice, it is the duty of the police clerk on the first Monday of November in each year to deliver to the commissioner of public safety an account verified by his oath of all moneys, goods, wares and merchandise then remaining unclaimed in police court in the possession of the police justice or the clerk of the court, and to immediately thereafter give notice by publication once a week for three successive weeks in one of the official papers, to all persons interested in or claiming such property, that unless claimed by the owner with satisfactory proof of ownership, before a specified day, the same will be sold at auction to the highest bidder. On the day and at the place specified in such notice, all property unclaimed, except money, must be sold at auction by the clerk or under his direction. If any goods, wares, merchandise or chattels of a perishable nature, or which are expensive to keep, at any time remain unclaimed in police court, or in the possession of the police justice or the clerk of the court, the police justice has the power to order the clerk to sell the same at public auction at such time and after such notice as he deems proper. The clerk immediately after the sale of any property in accordance here-

with, must pay to the city treasurer all unclaimed moneys remaining in his hands as police clerk, and all moneys received by him upon such sale after deducting the expenses thereof.

§ 482. **Stolen property.**— Whenever the clerk of the police court obtains possession of stolen property, it is his duty upon order of the police justice and upon receipt of satisfactory proof of ownership, to deliver such property to the owner thereof upon payment of all necessary and reasonable expenses which have been incurred for the preservation and sustenance of such property.

§ 483. **Property to be held as evidence.**— No property must be sold or delivered to the owner if the district attorney of Monroe county direct that it remain unsold or undelivered for the purpose of being used as evidence in the administration of justice.

§ 484. **Expense of punishing offenders against the state law.**— The expenses of apprehending, examining and committing persons violating any of the laws of the state, and of their confinement, must be audited, allowed and paid by the supervisors of the county of Monroe in the same manner as if such expenses had been incurred in any town of the county, to be assessed on the city.

ARTICLE XVII.

Municipal Court.

Section 495. Municipal court.
496. Judges to hold court.
497. Jurisdiction.
498. Summary proceedings.
499. Process.
500. Arrest, attachment and replevin.
501. Pleadings.
502. Complaint.
503. Answer.
504. Question of title to real property.
505. Demurrer.
506. Account or instrument for payment of money.

Section 507. Bill of particulars.
508. Amendment to pleadings.
509. Immaterial variance to be disregarded.
510. Joinder of issue.
511. Adjournment.
512. Commission.
513. Judicial notice of ordinances.
514. Bastardy proceedings.
515. Demand for jury trial.
516. Drawing jury.
517. Trial by jury.
518. Costs and fees.
519. Offer of judgment.
520. Confession of judgment.
521. Proceedings on default.
522. Opening defaults.
523. Judgment within ten days.
524. Transcript of judgment.
525. Power to punish for contempt.
526. Clerks and stenographers.
527. Payment and account of fees.
528. Constables.
529. Provisions of code generally applicable.

Section 495. **Municipal court.**—The court of civil jurisdiction known as the municipal court of the city of Rochester, is continued.

§ 496. **Judges to hold court.**— The municipal court is held by one of the judges thereof, and each judge may hold a separate session of the court at the same time. The court must hear, try and determine all causes according to law and justice, and where an issue of fact has been joined, if a jury trial is not had the judge must try the issue, hear the proofs and allegations of the parties, and render judgment according to law and justice.

§ 497. **Jurisdiction.**— The municipal court has jurisdiction

of the following civil actions and proceedings and criminal proceedings:

1. All civil actions and proceedings cognizable by law by justices of the peace or justices' courts as set forth in and prescribed by the code of civil procedure.

2. An action on contract express or implied, including an action to recover damages upon or for breach of a contract, express or implied, other than a promise to marry, where the sum claimed does not exceed two thousand dollars, exclusive of costs.

3. An action to recover the balance due upon an account where the sum total of the accounts of both parties to the action proved to the satisfaction of the court does not exceed two thousand dollars.

4. An action upon a judgment for a sum of money rendered in a court of record or not of record of the state of New York, including an order of a court or judge directing the payment of a sum of money, where the sum claimed does not exceed two thousand dollars, exclusive of costs. The right to bring an action upon a judgment for a sum of money rendered in a court of record is regulated by the provisions of section nineteen hundred and thirteen of the code of civil procedure. An action cannot be brought in the municipal court upon a judgment rendered by the municipal court for a sum less than twenty-five dollars, exclusive of costs, until three years have elapsed since the rendition and docketing of the judgment.

5. An action to recover damages for a personal injury or an injury to real property or for the conversion of personal property, where the sum claimed does not exceed two thousand dollars, exclusive of costs.

6. An action for a penalty, including a civil action for a penalty for violation of an ordinance of the common council of the city of Rochester, where the sum claimed does not exceed two thousand dollars, exclusive of costs.

7. An action upon a bond conditioned for the payment of money, where the sum claimed to be due does not exceed two thousand dollars, exclusive of costs, though the penalty exceed that sum;

the judgment to be given for the sum actually due. Where the sum secured to be paid by the bond is to be paid in installments an action may be brought for each installment as it becomes due.

8. An action on a surety bond or undertaking taken by any court of record or not of record of the state of New York, or judge or justice thereof, where the sum claimed does not exceed two thousand dollars, exclusive of costs. The right to bring an action upon such surety bond or undertaking is subject to the regulations and conditions prescribed by the code of civil procedure or otherwise by law.

9. An action to recover damages for fraud in the sale, purchase or exchange of real or personal property, where the sum claimed does not exceed two thousand dollars, exclusive of costs.

10. An action to recover one or more chattels, with or without damages for the taking, withholding or detention thereof, where the value of the chattel or of all the chattels as stated in the affidavit made on the part of the plaintiff, or in the complaint, does not exceed two thousand dollars.

11. Proceedings respecting bastards, brought by or instituted upon the application of the overseer of the poor of the city.

§ 498. **Summary proceedings.**—The judges of the municipal court have, and each of them has, jurisdiction in summary proceedings to recover the possession of real property under title two of chapter seventeen of the code of civil procedure, and power to issue process and perform all other necessary functions and duties to exercise and make effective such jurisdiction; and the provisions of said title apply to a summary proceeding commenced before a judge of the municipal court.

§ 499. **Process.**—All process issued by the court or a judge thereof must be made returnable before the court, unless otherwise provided herein, and may be signed by a judge, clerk or deputy clerk of the court, and may be executed and served within the city of Rochester by any constable of the city or by the sheriff of Monroe county or his deputies; except that a subpoena and process to enforce obedience thereto may be served within the county of

Monroe. A summons issued upon a verified complaint and the verified complaint must be served at the same time by delivering to and leaving with the defendant personally copies thereof, and may be served by any person of full age not a party to the action. The proof of service thereof, if served by a constable may be made by his certificate, and must be made by affidavit if served by any other person. Affidavits and certificates of service must state the time and place of service.

§ 500. **Arrest, attachment and replevin.**— The court has power to grant and issue orders of arrest, warrants of attachment and requisitions in replevin, in the same cases and in the same manner as specified in chapter nineteen of the code of civil procedure, except that the sum claimed may be two thousand dollars or under, exclusive of costs; and the provisions of that chapter apply to all proceedings thereon so far as the same are consistent herewith.

§ 501. **Pleadings.**— The pleadings are:

1. Plaintiff's complaint.

2. Defendant's answer.

3. The defendant's demurrer to the complaint or to one or more distinct causes of action separately stated therein.

4. Plaintiff's demurrer to one or more counter-claims stated in the answer.

Pleadings must be written, unless the court permit them to be oral; if oral, the substance thereof must be entered in the docket of the court; if in writing, they must be filed and a reference to them made in the docket.

§ 502. **Complaint.**— The complaint must contain:

1. The names of all the parties to the action, plaintiff and defendant.

2. A clear, precise and unequivocal statement of the facts constituting each cause of action.

3. A demand of the judgment to which the plaintiff supposes himself entitled.

In an action arising on contract for the recovery of money only, or upon account, plaintiff at the time of the issuing of the sum-

mons may file with the clerk of the court a written complaint subscribed by the plaintiff or an attorney admitted to practice as such in the courts of the state of New York, and verified in the manner prescribed by the code of civil procedure in respect to pleadings in courts of record.

§ 503. **Answer.**— The answer of the defendant must contain:

1. A general or specific denial of each material allegation of the complaint controverted by the defendant, or of any knowledge or information thereof sufficient to form a belief.

2. A clear, precise and unequivocal statement of any new matter constituting a defense or counterclaim.

An answer to a verified complaint must be in writing and subscribed by the defendant or an attorney admitted to practice as such in the courts of the state of New York, and verified in the manner prescribed by the code of civil procedure in respect to pleadings in courts of record.

§ 504. **Question of title to real property.**— The court has not jurisdiction in an action in which the title to real property comes in question; and the provisions of chapter nineteen of the code of civil procedure apply to actions in which it is claimed or appears that the title to real property comes in question.

§ 505. **Demurrer.**— The demurrer to the complaint or to one or more distinct and separate causes of action therein may be because the complaint or such cause of action is not sufficiently explicit to be understood or where the facts stated therein are not sufficient to constitute a cause of action. If the demurrer is to a counterclaim, it may be because the counterclaim is not sufficiently explicit to be understood, or does not state facts sufficient to constitute a counterclaim. If the court deems the demurrer well founded, it must permit the pleading to be amended, and if the party fails to amend, the defective pleading or part of the pleading demurred to must be disregarded. If the court deems the demurrer not well founded, it must permit the party making it to plead over at his election.

§ 506. **Account or instrument for payment of money.**— For

the purpose of setting forth a cause of action, defense or counterclaim, founded upon an account or upon an instrument for the payment of money only, it is sufficient for the party to set forth a copy of the account or instrument, and to state that there is due to him thereon from the adverse party, a specified sum, which he claims.

§ 507. **Bill of particulars.**— The court may upon the request of either party, made when issue is joined, require the adverse party to file, at a time specified by the court, a copy of his account or a bill of particulars of his claim. Upon failure to do so, the court may preclude him from giving evidence of his account or of the part or parts of his claim of which particulars have not been filed.

§ 508. **Amendment to pleadings.**— The court must upon application allow a pleading to be amended at any time before the trial, or during the trial, if substantial justice will be promoted thereby. Where a party amends his pleading after joinder of issue or pleads over upon the decision of a demurrer, and it is made to appear to the satisfaction of the court, by oath, that an adjournment is necessary to the adverse party in consequence of the amendment or pleading over, an adjournment must be granted. The court may also in its discretion require, as a condition of allowing an amendment, the payment of costs to the adverse party.

§ 509. **Immaterial variance to be disregarded.**— A variance between an allegation in a pleading and the proof, may be disregarded as immaterial, unless the court is satisfied that the adverse party has been misled thereby to his prejudice.

§ 510. **Joinder of issue.**— At the place and within one hour after the time specified in the summons for the return thereof, or where an order of arrest is granted and executed, within twelve hours after the defendant is brought before the court, or where no summons is issued, at the time when the parties voluntarily appear to join issue, the pleadings of the parties must be made and issue must be joined, unless the parties otherwise stipulate.

§ 511. **Adjournment.**— At the time of the return of the summons, or of the joinder of issue without process, the court must upon application of the plaintiff adjourn the trial of the action not more than eight days; but the court may refuse to grant such adjournment unless plaintiff or his attorney, if requested by defendant, makes oath that the plaintiff cannot, for want of some material testimony or witness specified by him, safely proceed to trial. At the time of the joinder of issue the court must upon the application of the defendant adjourn the trial of the action not more than eight days, upon the defendant or his attorney making oath that he verily believes that the defendant has a good defense to the action and that he cannot safely proceed to trial for want of some material testimony or witness specified by him, and unless the defendant has been arrested in the action, or the action is to recover a chattel, upon the defendant giving the plaintiff an undertaking in an amount fixed by the court not exceeding five hundred dollars, and in the form and to the effect prescribed in section two thousand nine hundred and sixty-two of the code of civil procedure. The court may in its discretion from time to time, upon its own motion or that of either of the parties, adjourn the trial of the cause, and may, as a condition to adjournment, require either party to give such security as it deems desirable, or may impose costs or other conditions. The power to grant adjournments in summary proceedings to recover the possession of real property is governed by the provisions of the code of civil procedure relating to such proceedings.

§ 512. **Commission.**— The court may award and issue a commission to take the testimony of a material witness not within the county of Monroe, as and in the manner provided in article three of chapter nineteen of the code of civil procedure; and the provisions thereof, except as modified by this act, apply to the issuance, execution, return and effect thereof.

§ 513. **Judicial notice of ordinances.**— The municipal court and the judges thereof must take judicial notice of all ordinances adopted by the common council, so long as the same remain in

force and effect; and the necessary and proper ordinances and amendments must be made a part of any return or record to be used on appeal.

§ 514. **Bastardy proceedings.**—The court in bastardy proceedings and at any stage thereof, except during the final examination and determination, may be held by one of the judges, and the judges may alternate in such proceedings except during the final examination and determination, when court must be held by both judges, or in case of the absence or inability to act, by reason of being occupied with other official duties, or other cause, of either of said judges, by the other judge and the police justice of said city, or one of the justices of the peace of a town within the county of Monroe. In case of any adjournment being had in said proceedings, and the defendant failing to give an undertaking or security for such adjournment, as provided by section eight hundred and forty-nine of the code of criminal procedure, he must be committed to the county jail of Monroe county during such adjournment, by a commitment signed by the judge or judges then holding court, and he may be taken therefrom at or before said adjourned time by any peace officer by an order issued by one of the judges directed to the keeper of the said jail, and produced before the court, for the purposes of examination or further adjournment, as may then be had. Any number of adjournments may be had in said proceedings, and the same may be had for any length of time. The undertaking or security to be given upon an adjournment must be signed by two sufficient sureties and be to the effect that the defendant will appear before the court at the adjourned time and such other time or times to which adjournments may be had for the purposes of the examination and determination and will render himself amenable to any process, order or commitment that may be issued or made in such proceedings. In case the defendant be adjudged to be the father of any bastard child or children, in any such bastardy proceedings, and he fail to pay the costs and give an undertaking for the support of such child or children, and its or their mother, or* said defend-

* So in original.

ant's appearance at the next term of county court of Monroe county, as provided by section eight hundred and fifty-one of the code of criminal procedure, the magistrates composing the court, or either of them, must, by warrant, commit such defendant to the Monroe county penitentiary, there to remain until he be discharged by the said county court, or deliver an undertaking for the support of said child or mother as aforesaid. In all other respects the proceedings to be had or taken in any such bastardy proceedings instituted in said court, shall conform to the provisions of the code of criminal procedure relating to proceedings respecting bastards. Every warrant or commitment must commit the defendant to the Monroe county penitentiary, where it is issued by any judge or justice aforesaid, or out of or by virtue of the order or judgment of the county court of Monroe county, upon any appeal taken thereto in any proceedings respecting bastards instituted by the overseer of the poor of the city.

§ 515. **Demand for a jury trial.**— At the time when an issue of fact is joined either party may demand a trial by jury, and unless so demanded at the joining of issue a jury trial is waived. At the same time either party may demand that the jury be composed of twelve members, and unless so demanded it must consist of six members unless otherwise stipulated by the parties. The party demanding a trial by jury must thereupon pay to the clerk of the court the statutory fees for the attendance of each person to be summoned and for jurors to serve upon the trial, and also the fees to which the constable is entitled for notifying the persons to be drawn as jurors. In default of the payment of such fees the court must proceed as if no demand for a trial by jury had been made. But if the party demanding the jury trial demand a jury of six and the opposite party demand a jury of twelve, the party demanding the jury of twelve must pay the fees for the extra persons summoned and for the extra jurors and the constable's fees for notifying the extra persons. In default of the payment of such fees the court must proceed as if no demand for a jury of twelve had been made. In case a court attendant

or other official is appointed upon whom is placed the duty of notifying persons to be drawn as jurors, the common council may, by ordinance, determine that the parties to an action or proceeding shall not be required to pay the fees for such notifications.

§ 516. **Drawing jury.**— Whenever a trial by jury is duly demanded, the judge presiding must forthwith draw in the manner prescribed by law such number of names as he deems necessary to attend as jurors for the purpose of trying the issues in such case, at the time to which the same has been adjourned. The number so drawn must not exceed fifteen in case a jury trial of six is demanded, and must not exceed thirty in case a jury of twelve is demanded, unless the parties otherwise stipulate. Thereafter, except as herein otherwise provided and so far as consistent with this act, the provisions of title five of chapter nineteen of the code of civil procedure govern the further proceedings in such case.

§ 517. **Trial by jury.**— It is the duty of the court in a trial by jury to grant a non-suit, to charge the jury as to the law, or to direct a verdict, and its power to do so is the same and must be exercised in the same manner as that of a court of record in civil cases.

§ 518. **Costs and fees.**—

1. The prevailing party in an action in the municipal court is entitled to the following sums as costs, which must be included in the judgment:

To the plaintiff:

The amount of fees and disbursements allowed by law, and also the following additional sums:

(a) When the damages recovered do not amount to twenty-five dollars, the sum of two dollars.

(b) When the damages recovered amount to twenty-five dollars, and do not amount to fifty dollars, the sum of three dollars.

(c) When the damages recovered amount to fifty dollars, and do not amount to one hundred dollars, the sum of five dollars.

(d) When the damages recovered amount to one hundred dol-

lars, and do not amount to three hundred dollars, the sum of seven dollars.

(e) When the damages recovered amount to three hundred dollars, and do not amount to five hundred dollars, the sum of nine dollars.

(f) When the damages recovered amount to five hundred dollars, and do not amount to seven hundred dollars, the sum of ten dollars.

(g) When the damages recovered amount to seven hundred dollars, or over, the sum of fifteen dollars.

(h) When issue has been joined and an actual trial had upon a question of fact, the plaintiff is entitled, in addition to the sums hereinbefore specified, to the following amounts as trial costs: When the damages recovered do not amount to two hundred dollars, the sum of five dollars; when the damages recovered amount to two hundred dollars and do not amount to four hundred dollars, the sum of seven dollars; when the damages recovered amount to four hundred dollars and do not amount to seven hundred dollars, the sum of ten dollars; when the damages recovered amount to seven hundred dollars or over, the sum of fifteen dollars.

To the defendant:

When issue has been joined and an actual trial had upon a question of fact, the fees and disbursements allowed by law, and also the following additional sums as trial costs:

When the plaintiff has demanded in his complaint, or sought to obtain upon the trial, judgment against the defendant for any amount under two hundred dollars, the sum of five dollars; and when two hundred dollars, and less than four hundred dollars, the sum of seven dollars; and when four hundred dollars, and less than seven hundred dollars, ten dollars; and when over seven hundred dollars, fifteen dollars.

2. When a judgment of nonsuit is rendered in an action because the plaintiff discontinues or withdraws the action or because he fails to appear within one hour after the summons is

returnable or within one hour after the time to which the trial has been adjourned, if the defendant has duly appeared on the return day and on the adjourned days, if any, and in case a verified complaint was served, has filed a verified answer, the court may in its discretion award to the defendant the following sums as costs, for which judgment must be granted in addition to the fees and disbursements allowed by law.

If it appears by the complaint that the amount claimed by plaintiff is under one hundred dollars, or if no complaint has been filed, the sum of three dollars. If it appears by the complaint filed by plaintiff that the amount claimed is one hundred dollars or over, five dollars.

3. The prevailing party in summary proceedings to recover the possession of real property is entitled, in addition to other costs, fees and disbursements allowed by or pursuant to law, to the sum of five dollars trial costs, if there has been a trial of an issue of fact joined therein.

4. The trial costs prescribed by this section must not be allowed to the prevailing party unless he appears in the action or proceeding by an attorney admitted to practice as such in the courts of the state of New York and the trial is conducted by an admitted attorney or his clerk.

§ 519. **Offer of judgment.**— The defendant may on the return of process and before answering, make an offer in writing to allow judgment to be taken against him for an amount stated in such offer with costs. The plaintiff must thereupon and before any other proceedings are had in the action, determine whether he will accept or reject such offer. If he accept the offer, the acceptance thereof must be in writing and the clerk must file the offer and the acceptance thereof, and judgment must be rendered accordingly. If the plaintiff fail to accept the offer and fail to obtain judgment for a greater amount exclusive of costs, than was specified in the offer, he is not entitled to recover costs, but must pay to the defendant his costs accruing subsequent to the offer.

§ 520. **Confession of judgment.**— The municipal court has jurisdiction to render judgment upon the confession of a defendant as prescribed in title six of chapter nineteen of the code of civil procedure, where the sum confessed does not exceed two thousand dollars, exclusive of costs; and the provisions of said title apply thereto.

§ 521. **Proceedings on default.**— When a defendant makes default in appearing or pleading upon the return of a summons served without a verified complaint, the court must hear the allegations and proof of the plaintiff, and render judgment according to law and justice. When a verified complaint has been served with the summons, if the defendant fail to file a verified answer thereto, he is deemed to have admitted the allegations of the complaint, and the court, upon the filing of the summons and complaint with proof of due service thereof, must forthwith enter judgment for the plaintiff for the amount demanded in the complaint, with costs and disbursements, without further proof.

§ 522. **Opening defaults.**— The municipal court has power to open defaults and set aside judgments rendered on default and entered therein and executions issued thereon. before a transcript thereof has been filed in the Monroe county clerk's office, and the judges thereof have power to vacate orders made on default and all process issued thereon or thereunder; on such terms as may be just, provided it is shown that manifest injustice has been done and the defendant satisfactorily excuses his default; but no greater terms must be imposed than the payment of the costs included in the judgment or order and the sum of seven dollars costs of the motion. The application therefor must be founded upon affidavits, and must be made within twenty days from the entry of judgment or order, but the court may hear evidence concerning the matters specified in the affidavit upon the hearing of the motion. Upon presentation of such application the municipal court must issue an order under the hand of one of the judges or of the clerk, returnable in not less than five nor more than eight days, requiring the plaintiff to show cause why said judg-

ment or order should not be set aside. A copy of the order and the papers upon which it is granted must be served upon the plaintiff or his attorney, if he has appeared by attorney, not less than three days prior to the return thereof. Pending such application and the determination thereof, the court may stay proceedings under any execution or process which has been issued. When a judgment or order is set aside the action or proceeding must proceed as though no judgment had been rendered. In such a case when an execution has been issued and a levy made thereunder, the same may, in the discretion of the court, be allowed to stand as security for the satisfaction of any judgment that plaintiff may finally recover.

§ 523. **Judgment within ten days.**— Judgment must be rendered by the court and entered in the docket thereof, in every action or proceeding finally submitted to the court, within ten days thereafter, unless otherwise stipulated by the parties.

§ 524. **Transcript of judgment.**— The clerk, on the application of the party in whose favor the judgment was rendered, and payment of the fees therefor, must deliver to him a transcript of the judgment. The county clerk of Monroe county must, upon presentation of the transcript and payment of the fee therefor, if within six years after the rendering thereof, endorse thereupon the date of its receipt, file it in his office, and docket the judgment as of the time of the receipt of the transcript, in the book kept by him for that purpose. Thenceforth the judgment is deemed and becomes a judgment of the county court of Monroe county and must be enforced accordingly, except that an execution can be issued thereupon only by the county clerk as prescribed in the code of civil procedure, and that the judgment is not a lien upon and cannot be enforced against real property unless it is for twenty-five dollars or more, exclusive of costs.

§ 525. **Power to punish for contempt.**— The judges have power to punish for contempt in the same manner and to the same extent as justices of the peace as provided in title one of chapter nineteen of the code of civil procedure.

§ 526. **Clerks and stenographers.**—The judges may appoint to hold office during their pleasure, a clerk, two deputy clerks, and such other subordinates as may be prescribed by the board of estimate and apportionment. Each of the deputy clerks must be a stenographer. It is the duty of the clerk to keep the docket of the court, of all proceedings in any action or proceeding brought in the court or before a judge thereof, and to enter in the docket the judgments, orders and decisions of the court and of the judges thereof; and the docket shall be evidence in the courts of this state to the same extent as the docket of a justice of the peace. It is the duty of the deputy clerks to take stenographic minutes of the testimony and other proceedings in all cases tried before the court or a judge thereof, except when the judge presiding directs otherwise. They must transcribe fully and at length the minutes of each case taken, when directed by the court or judge, and file the same with the clerk, who must cause the same to be preserved with the other papers in the case. The stenographic minutes taken by the deputy clerks must be preserved and filed in the office of the clerk of the court, and they must furnish to any one applying therefor a transcript of such minutes, for which a charge must be made of three cents for each folio of one hundred words contained therein, to be paid into court for the benefit of the city. It is also the duty of the clerk and deputy clerks to make and file in the Monroe county clerk's office all returns on appeal in cases in which the minutes of testimony are taken by the deputy clerks; such return to be made in type or ordinary writing and certified by the judge who tries the case. It is also the duty of the clerk in the absence of both judges, to call all cases on the return day and hour and note appearances and defaults, with the same force and effect as if done by the judges or either of them, and in the absence of both judges to adjourn any action or proceeding for a period of not more than five days; which duty may be performed by either of the deputy clerks. The judges, clerk and deputy clerks have power to administer oaths and take acknowledgments the same as justices of the peace of towns.

§ 527. **Payment and account of fees.**— There must be paid to the clerk of the court the same fees which are provided by law to be paid to justices of the peace or into justices' courts, and in addition thereto the following amounts: For the actual trial of an issue of fact, when the amount demanded by either of the parties is over one hundred dollars, twenty-five cents for each hundred dollars or part thereof in excess of one hundred dollars, to be paid by the party demanding the same; for the entry of judgment by default, twenty-five cents for each hundred dollars or part thereof for which judgment is entered, in excess of one hundred dollars; two dollars for issuing an order to show cause why a judgment or order rendered or made upon default should not be vacated. The clerk must demand and receive prepayment of all fees for process, making out and filing bonds, undertakings and affidavits, together with such fees for trial, judgment and other matters as are allowed by law in justices' courts; also fees for jurors when a jury trial is demanded, and in addition thereto such other fees as are allowed by this act; and he must keep an accurate account of all moneys paid into court or received by him or the deputy clerks, and a daily itemized account of the same, and at the end of each month must deposit with the treasurer of the city all fees and moneys received, together with a statement thereof verified by him to be a true and correct account of all the moneys paid into court or received by him or the deputy clerks during the period covered by the statement.

§ 528. **Constables.**— The constables elected in the different wards of the city are officers of the municipal court, and the judges thereof may command the services of any constable of the city to enforce the authority of the municipal court and to maintain peace and good order therein; but the constables are not compelled to serve or execute any process issued by the police justice or the municipal court in execution of the laws of the state for the prevention of crime and the punishment of criminal offenders, or of the police laws and regulations of the state or of the city; nor is the county of Monroe or the city liable to pay any such con-

stable any fees for serving or executing such process. In other respects the constables elected in the city have within the city the same authority and fees, and are subject to the same duties as the constables of the several towns of the county.

§ 529. **Provisions of code generally applicable.**— The provisions of chapter nineteen and title five of chapter twenty of the code of civil procedure, excluding section three thousand sixty-three of chapter nineteen, excluding article three of title eight of chapter nineteen, and excluding titles ten and eleven of chapter nineteen, apply to the municipal court and the judges thereof, except so far as they are inconsistent with this act.

ARTICLE XVIII.

Mount Hope Commission.

Section 540. Mount Hope commission.
541. Powers and duties of Mount Hope commission.
542. Power to order work and purchase supplies.
543. Duties of superintendent and subordinates.
544. Deeds of Mount Hope cemetery lots.
545. Repair fund.
546. Perpetual contract fund.
547. Special section fund.
548. Power to hold lots in trust.
549. Mount Hope cemetery property exempt from execution.

Section 540. **Mount Hope commission.**— The Mount Hope commission is composed of the commissioners of Mount Hope, and it must annually elect one of its members president thereof, and may adopt rules for the transaction of its business.

§ 541. **Powers and duties of Mount Hope commission.**— The Mount Hope commission has power to appoint a superintendent and such other subordinates as it deems proper, and to fix their compensation and regulate their duties. It has the control, care, management and maintenance of Mount Hope cemetery and of

everything in and upon the same, and the fences surrounding the same. It must cause suitable maps to be made of all the grounds, roads and lots in the cemetery, and may by resolution adopted at a meeting thereof divide the whole or any part of the lands now or hereafter belonging to the cemetery into such definite sections or parts as deemed desirable, and each of such sections or parts must have a name, and the name of each section must be designated, and the boundary lines thereof described in the resolution; and the resolution together with the date of its passage must be recorded in a book kept by or under the control of the commission for that purpose, and subscribed by the commissioners or a majority of them, and a copy of said resolution with the date of its passage, duly certified by the commissioners or a majority of them, must be immediately filed in the office of the city clerk, and must be recorded by said clerk in a book to be kept by him for that purpose; and the commission may regulate the sales and prices of lots and interments in the cemetery, and may make rules and regulations for the use and improvement of the cemetery, including all of the buildings, monuments, tombstones and other articles in or upon the same; but in no case may it charge a fee to visitors.

§ 542. **Power to order work and purchase supplies.**— The Mount Hope commission has power to cause work to be done and to purchase supplies and materials necessary in the performance of its duties. The commission is prohibited from expending any money or incurring any indebtedness in excess of its receipts and accumulation of receipts, including interest on permanent funds permitted by the provisions of this act to be expended by the commission. Any expenditures of money or liability incurred in violation of the provisions of this section is void and not binding upon the city.

§ 543. **Duties of superintendent and subordinates.**— It is the duty of the superintendent and of all other subordinates designated by the commission to enforce the rules and regulations of the Mount Hope commission, and ordinances of the common council relating to Mount Hope cemetery, and to arrest any person caught

in the act of violating an ordinance of the common council relating to Mount Hope cemetery.

§ 544. **Deeds of Mount Hope cemetery lots.**— All deeds of sections, lots and burial places must be executed by the mayor and city clerk, and countersigned by the treasurer and recorded in the city clerk's office.

§ 545. **Repair fund.**— The Mount Hope cemetery repair fund is continued with the moneys therein contained, and a sum to be determined by the Mount Hope commission not less than ten per centum of the annual gross receipts must annually be paid into the repair fund, until such fund amounts to the sum of five hundred thousand dollars, and the interest thereof must be applied to the repairing of roads, lawns, hill-sides, monuments, abandoned lots and public grounds, and the erection of new buildings; and such repair fund must never be diverted from such purposes, and no part thereof expended except the interest received thereon.

§ 546. **Perpetual contract fund.**— Any person may pay to the treasurer of the city of Rochester to the credit of the Mount Hope perpetual contract fund, a sum of money deemed sufficient by said commission for the purpose of keeping in order any lot or parcel of land in the cemetery, and the treasurer must deliver to such person a certificate signed by himself and by a majority of the commissioners of Mount Hope and by the city clerk, and to which the city seal must be attached, stating the amount deposited, the name of the person making the deposit, a description of the lot for which it is made, and a covenant on the part of the city that the interest on such deposit thereafter from time to time, as occasion may require, will be expended on such lot for the purpose of keeping the same in repair; and the Mount Hope commission and the city clerk must keep a record of such certificates issued; and thereafter the interest obtained on such sum must from time to time, as occasion requires, be expended under the direction of the Mount Hope commission on such lot or parcel of land for the purpose of keeping the same in repair. The city in no event is liable to repay the principal paid into the Mount Hope perpetual contract fund.

§ 547. **Special section fund.**— A special section fund may be created by the Mount Hope commission for the care of lots in sections or parts of the cemetery designated by the Mount Hope commission. There may be annually added thereto a sum determined by the Mount Hope commission not exceeding twenty per centum of the annual gross receipts from the sales of the lots in such definite section or part of the cemetery. The interest on the moneys in the fund must be used for the care of the surface of the lots in such sectional part of the cemetery, but not for the erection or care of mounds or other structures above the general surface of the ground. A deed conveying any lot or portion of the cemetery for burial purposes included in the part or section designated by the Mount Hope commission, must contain an agreement on the part of the city that the part of the special section fund applicable thereto will be applied as provided in this section to the care of the lands described in the deed.

§ 548. **Power to hold lots in trust.**— Any owner or owners of a lot or part of a lot in Mount Hope cemetery, may grant or devise the same to the Mount Hope commission, subject to its acceptance thereof, and it shall thereafter own the same in trust to the extent and in the manner and for the purpose specified in and by the deed, will or other conveyance, and the said commission must thereafter permit the interment of only such person or persons or class of persons in such lot or part of a lot as may be designated in such deed, will or other conveyance or by the owner or owners thereof in his or their lifetime.

§ 549. **Mount Hope cemetery property exempt from execution.** — Mount Hope cemetery, and all sections, lots and burial places therein, heretofore or hereafter conveyed as places for the burial of the dead, are exempt from levy and sale on execution, and cannot be applied to the payment of debts by an assignment under any insolvent law, or by any compulsory process of law.

ARTICLE XIX.

Market Commission.

Section 560. Market commission.
561. Powers and duties of market commission.
562. Market privileges.
563. Market revenues.

Section 560. **Market commission.**— The market commission is composed of the market commissioners and the city engineer, and it must annually elect one of its members president thereof, and may adopt rules for the transaction of its business.

§ 561. **Powers and duties of market commission.**— The market commission has power to appoint to hold office during its pleasure such subordinate as may be prescribed by the board of estimate and apportionment. It has the control, government and management of the public market, and must cause all moneys and revenues received therefrom to be deposited daily with the treasurer of the city, and must make a monthly report to the common council of the amount of business done at the market, the amount of all revenues received, the source thereof, and the amount paid or incurred for salaries and other expenses.

§ 562. **Market privileges.**— The market commission has power to lease stands, places and privileges in the public market. No stand, place or privilege may be leased for a longer term than one month, except to the highest bidder therefor after public notice; and no stand, place or privilege may be leased for more than three years. The amount of all general license fees and charges for market stands, places and privileges must be fixed by general ordinance of the common council.

§ 563. **Market revenues.**— The revenues or receipts of the market must be applied as follows: first, to the payment of interest upon the public market bonds; second, the remainder, if any, to the public market sinking fund as a part of the annual amount required to be credited to that fund; third, the remainder, if any,

to the maintenance of the public market, as far as may be necessary, and subject to the limitations provided by this act as to expenditures of money.

ARTICLE XX.

Board of Midwife Examiners.

Section 574. Board of midwife examiners.
575. Examiners and certificates.
576. Powers of a midwife.
577. Revoking certificates.
578. Penalties.

Section 574. **Board of midwife examiners.**— The board of midwife examiners consists of the midwife examiners and the health officer, and it must annually elect one of its members president thereof, and may adopt rules for the transaction of its business.

§ 575. **Examinations and certificates.**— The board must meet on the first Tuesday of April and October in each year, and at such other times as it may appoint, and examine all candidates of the age of twenty-one years and upwards as to their moral character and qualifications to practice midwifery, and must issue a certificate of qualification to practice midwifery to any person so examined who is found by them to be qualified, upon such person paying to the city treasurer the sum of ten dollars. A duplicate of such certificate must be recorded by the clerk of the city of Rochester in a book kept for that purpose.

§ 576. **Powers of a midwife.**— Any person who has received and recorded such certificate shall thereupon be designated a midwife, and authorized and entitled within the city of Rochester to practice midwifery in cases of normal labor, and in no others; but such persons must not in any cases of labor, use instruments of any kind, nor assist labor by any artificial, forcible, or mechanical means, nor perform version nor attempt to remove adherent placentæ, nor administer, prescribe, advise, or employ any poisonous or dangerous drug, herb or medicine, nor attempt

the treatment of disease except where the attendance of a physician cannot be speedily procured, and in such cases, such persons must at once and in the most speedy way procure the attendance of a physician.

§ 577. **Revoking certificates.**— The board of examiners has power, on proper cause being shown, and after giving a hearing to the person holding their certificate, to recommend to the mayor of the city of Rochester the revocation of the same, and the mayor has power thereupon to revoke such certificate and license.

§ 578. **Penalties.**— Any person who practices, or without the attendance of a physician where one can be procured, attends a case of obstetrics within the city of Rochester, without being duly authorized so to do under existing laws of this state, or without having received and recorded the certificate provided by this act, and any person who violates any of the provisions of this act is guilty of a misdemeanor and on conviction thereof shall be fined not less than fifty dollars nor more than one hundred dollars, and shall forfeit any certificate therefor granted under the provisions of this act.

ARTICLE XXI.

Board of Examiners of Stationary Engineers.

Section 589. Board of examiners of stationary engineers.
590. Powers and duties of the board.

Section 589. **Board of examiners of stationary engineers.**— The board of examiners of stationary engineers is composed of the examiners of stationary engineers, and must annually elect one of its members president thereof, and may adopt rules for the transaction of its business.

§ 590. **Powers and duties of the board.**— The board must meet at least twice each month for the purpose of examining applicants for stationary engineer's licenses, and they possess such other powers and must perform such other duties as may be directed by ordinance of the common council.

ARTICLE XXII.

Municipal Civil Service Commission.

Section 601. Municipal civil service commission.
602. Secretary.
603. Subordinates.

Section 601. **Municipal civil service commission.**—The municipal civil service commission is constituted as may be prescribed by law, and it must annually elect one of its members president thereof, and it has the powers and must perform the duties which may be conferred and imposed upon it by or pursuant to law.

§ 602. **Secretary.**—The secretary of the municipal civil service commission is appointed by the mayor, and he must perform such duties as may be imposed upon him by the commission or by law.

§ 603. **Subordinates.**— The municipal civil service commission has power to appoint such subordinates as may be prescribed by the board of estimate and apportionment.

ARTICLE XXIII.

Supervisors.

Section 614. **Powers, duties and compensation of supervisors.**—The supervisors have the powers and are under the duties of supervisors of towns under the laws of the state, so far as they are consistent with the provisions of this act. Such laws, so far as they are applicable, regulate the powers and duties of supervisors. The supervisors are members of the board of supervisors of the county of Monroe, and are entitled to the same compensation, to be paid in the same manner.

ARTICLE XXIV.

Miscellaneous Provisions.

Section 625. Inhabitants not incompetent.
626. Witnesses not to be excused from testifying.

Section 627. No security required by city.
628. Officers to hold during term.
629. Civil service employees to continue.
630. Ordinances to remain in force.
631. Territory annexed.
632. Claims for damages; place of trial of actions and proceedings.
633. Definition of words.
634. Construction.
635. Certain acts not to apply.
636. Laws now applicable.
637. Effect of repeal.
638. Acts repealed.
639. When to take effect.

Section 625. **Inhabitants not incompetent.**— Upon the trial of any issue or the prosecution of any proceeding, or upon the taking or making of any inquisition, appraisal or award, or upon the judicial investigation of any facts whatever, or in any action or proceeding in any court or before any judge, to which issue, proceedings, inquest, investigation, award or action the city or its departments, boards or officers is a party, or in any way interested, no person is deemed incompetent as a judge, referee, commissioner, appraiser, arbitrator, witness or juror by reason of his being an inhabitant, freeholder or taxpayer of the city.

§ 626. **Witnesses not to be excused from testifying.**— No witness shall be excused from testifying in any criminal proceeding or in any investigation or inquiry before the common council or any committee thereof, or before any officer conducting an investigation, touching the knowledge of such witness as to any offense committed in violation of the provisions of this act or an ordinance of the common council; but such testimony must not be used against such witness in any criminal prosecution or proceeding whatever.

§ 627. **No security required by city.**— No bond, undertaking

or security is necessary to be delivered or filed by the city or any of its officers, boards or departments, in any action, suit or proceeding in or before any court, judge or justice of the state, on appeals, adjournments or other matters in which security is required, unless otherwise specifically required by this act.

§ 628. **Officers to hold during term.**— All officers elected or appointed for a definite term continue in office for the term for which they were elected or appointed, under the powers, provisions and restrictions of this act.

§ 629. **Civil service employees to continue.**—All employees holding positions under or subject to civil service examination are continued in their respective positions under the powers, provisions and restrictions of this act, until removed according to law.

§ 630. **Ordinances to remain in force.**— All ordinances of the common council not inconsistent with the provisions of this act remain in force and are not deemed repealed by the enactment hereof.

§ 631. **Territory annexed.**— The territory which by this act is taken from the town of Irondequoit and annexed to the city of Rochester as a part of the twenty-second ward thereof, remains in the first assembly district of Monroe county, until the same is changed according to law; and the common council must make provision for the voting of the electors of such territory.

§ 632. **Claims for damages; place of trial of actions and proceedings.**— All claims against the city for damages or injuries to person or property, invasions of personal or property rights of every name and nature whatsoever, whether casual or continuing, continuing and continuous trespasses, continuing and continuous invasions of property, continuing and continuous invasions of property rights, and all other claims for damages or injuries to persons or property, arising at law or in equity, and enforceable or sought to be enforced at law or in equity, alleged to have been caused or sustained in whole or in part by or because of any misfeasance, nonfeasance, negligence, omission of duty, wrongful act, fault or neglect on the part of the city or any of its agents,

officers or employees, must be presented to the common council and the corporation counsel, in writing, within thirty days after such damages, or injuries to persons or property were sustained. Such writing must state the time when, the place where and the circumstances under which the damages or injuries were sustained and the particular cause thereof; it must also state so far as it is then practicable, the nature and extent of the damages or injuries; it must also state the place of residence of the claimant by street and number, and if there be no street or number, it must contain such statement as will disclose the place of residence; and all such claims must be verified by the oath of the claimants; and if it is intended to commence an action on such claim, notice of such intention, containing the amount demanded and the time and place of the damages or injuries must also be served on the corporation counsel within six months after such damages or injuries were sustained. No action may be maintained for damages or injuries to persons or property caused or sustained as aforesaid unless the claim therefor is presented to the common council and corporation counsel within thirty days and notice of intention is served upon the corporation counsel within six months, and the action is commenced within one year after such damages or injuries were sustained, but no such action may be brought until three months have elapsed after the presentation of the claim to the common council and the corporation counsel. This section applies to claims of infants and all other persons. The place of trial of all actions or proceedings against the city or its boards or officers, shall be in the county of Monroe.

§ 633. **Definition of words.**— The word "his" as used in this act shall, in all proper cases, be held to include and be coextensive with the words "her," "it" and "their;" the word "person" shall be held to include and be coextensive with the words "persons," "company," "joint stock association" and "corporation." The word "street" shall be held to include and be coextensive with "roads," "avenues," "highways" and "alleys;" the word "work" shall be held to include and be coextensive with

"improvements" and "repairs;" the word "materials" shall be held to include and be coextensive with "supplies," "stationery," "books," "furniture" and "repairs to furniture;" the word "tax" shall in all proper cases be held to include and be coextensive with "water rents or rates," "assessments or reassessments for local improvements;" the word "board" shall be held to include and be coextensive with "commission," and the singular noun shall be held to include and be coextensive with the plural. A reference to the code of civil procedure, to the code of criminal procedure, to any statute, to the rules of practice, or any sections or parts thereof, shall be held to refer to such code of civil procedure, code of criminal procedure, statutes and rules of practice as the same now exist or as they may from time to time hereafter be amended. The expressions "according to law," "pursuant to law," and "by law," and any reference to law shall be held to refer to the law as now existing or as hereafter from time to time amended or changed.

§ 634. **Construction.**— The provisions of this act, so far as they are substantially the same, or cover the same subject matter, as those of any law repealed hereby, shall be construed as a continuance of such repealed law, modified or amended, according to the language employed herein and not as new enactments. References in a law not repealed to the provisions of any law incorporated into this act, shall be construed as applying to the provisions so incorporated. Nothing contained in this act shall be construed as relieving a street surface railway corporation, or any other corporation, from its obligations, liabilities, duties or agreements under existing contracts, ordinances or laws. The meaning and effect of the terms and language used herein shall be construed in accordance with the provisions of the statutory construction law. This act is intended to be and shall be deemed and held in all courts to be a public act of which the court shall take judicial notice, and shall be liberally construed so as to carry into effect the objects and purposes thereof.

§ 635. **Certain acts not to apply.**— The provisions of chapter

three hundred thirty-nine of the laws of eighteen hundred and eighty-three, relating to pawnbrokers; the provisions of chapter six hundred eighty-five of the laws of eighteen hundred and ninety-two, known as the general municipal law, except sections two and twenty-one thereof; the provisions of chapter four hundred forty-eight of the laws of eighteen hundred and ninety-six, relating to licensing of dogs; the provisions of chapter three hundred thirty-four of the laws of nineteen hundred and one, known as the tenement house act; the provisions of chapter four hundred thirty-two of the laws of nineteen hundred and four as amended by chapter three hundred twenty-seven of the laws of nineteen hundred and six, relating to employment agencies; and all acts amendatory thereof and supplementary thereto, do not apply to the city of Rochester.

§ 636. **Laws not applicable.**— While the city remains a city of the second class it shall be governed by and be subject to the laws applying to cities of the second class, the laws now applying to the city of Rochester even though specifically repealed herein, and the provisions of this act which by the terms thereof are to take effect before the first day of January, nineteen hundred and eight.

§ 637. **Effect of repeal.**— The repeal of a law, or any part of it, by the provisions of this act, shall not affect or impair any act done or right accruing, accrued or acquired, or penalty, forfeiture or punishment, or any bar, limitation or defense incurred prior to the time when this act takes effect, under or by virtue of the law so repealed, but the same may be asserted, enforced, prosecuted or inflicted as fully and to the same extent as if such law had not been repealed, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the city, its boards or officers; and all actions or proceedings, civil or criminal, commenced under or by virtue of any law so repealed and pending when this act takes effect, may be prosecuted and defended to final effect in the same manner as they might under any such law so repealed, unless it be otherwise specifically

provided herein. Any limitation or bar imposed by any act repealed hereby, shall be computed from the time the same began to run, and if the whole time thereof has been completed when this act takes effect, such bar or limitation shall become absolute, except as to bars, limitations and defenses which it is specifically provided herein may not be asserted or enforced against the city, its boards or officers; but if the whole time thereof has not been completed, the time thereof which has run before the taking effect of this act shall be computed as a part of the time provided by this act as such limitation or bar. The repeal hereby of a law or part thereof, does not revive a law repealed by the law or part thereof hereby repealed, and includes all laws amendatory of the laws hereby repealed.

§ 638. **Acts repealed.**— All acts and parts of acts inconsistent herewith are repealed so far as they affect the city of Rochester, and the acts enumerated in the schedule annexed, are repealed.

§ 639. **When to take effect.**— The common council has power on and after September first, nineteen hundred and seven, to pass any ordinance authorized by this act, and to cause the same to be published, if necessary; which ordinances shall take effect on January first, nineteen hundred and eight. Section three, section fourteen, section sixteen, section seventeen, section thirty-two, section two hundred eight, section two hundred fifty-nine, section two hundred sixty-five, section six hundred twenty-eight and section six hundred thirty-one of this act take effect immediately. The remainder of this act shall take effect on the first day of January, nineteen hundred and eight.

SCHEDULE OF LAWS REPEALED.

Laws of	Chapter
1834	199
1835	148
1835	243
1835	297
1836	158

Laws of	Chapter
1837	361
1838	199
1838	274
1839	190
1840	27
1840	243
1840	336
1840	373
1841	208
1842	35
1842	208
1842	282
1843	76
1844	69
1844	140
1844	145
1846	198
1847	276
1847	304
1848	42
1848	85
1848	150
1848	174
1848	183
1849	62
1849	303
1849	367
1849	560
1850	32
1850	262
1851	389
1851	495
1852	218
1852	241

Laws of	Chapter
1852	306
1852	344
1852	356
1853	16
1853	188
1853	240
1853	332
1853	582
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STATE OF NEW YORK,
Office of the Secretary of State. } *ss.:*

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

JOHN S. WHALEN,
Secretary of State.

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